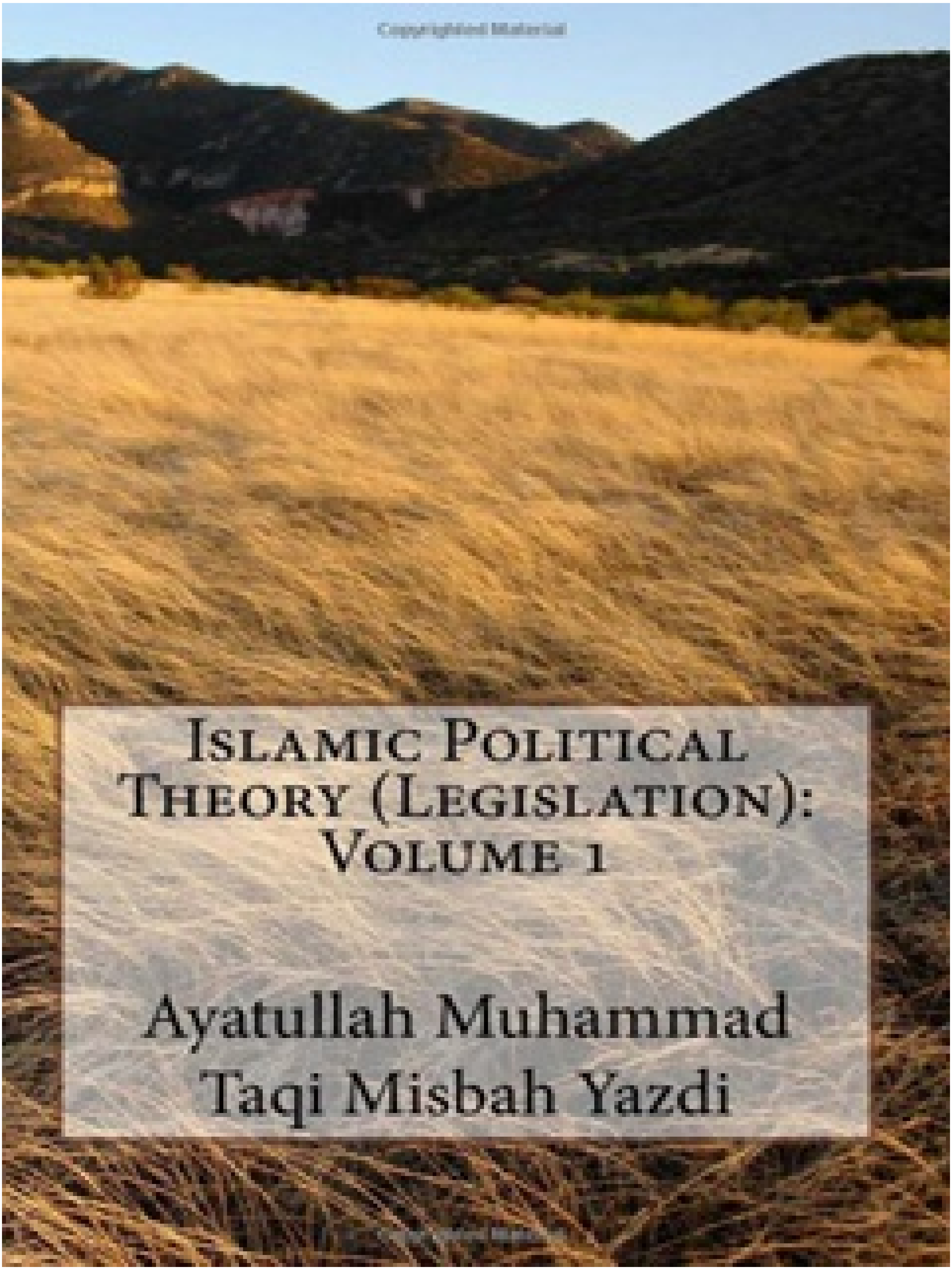

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Islamic Political Theory (Legislation): Volume 1
Ayatullah Muhammad Taqi Misbah Yazdi
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point

The first of two volumes of the renowned and comprehensive text on Islamic political theory by Ayatullah Misbah Yazdi, dealing with the importance of recognizing Islam as the basis of any just political theory, methods of implementing such a theory by the government, and comparing and contrasting this Islamic system with the system predominant in most Western ans secular nations.

Preface

قَالَ رَسُولُ اللهِ ص:

إِنِّی تَارِکٌ فِیکُمُ الثَّقَلَیْنِ: کِتَابَ اللهِ وَعِتْرَتِی أَهْلَ بَیْتِی، مَا إِنْ تَمَسَّکْتُمْ بِهِمَا لَنْ تَضِلُّوا بَعْدِی أَبَداً، وَإِنَّهُمَا لَنْ یَفْتَرِقَا حَتَّی یَرِدَا عَلَیَّ الْحَوْضَ.

:The Messenger of Allah (s) said

Verily, I am leaving among you two precious things [Thaqalayn]: The Book of Allah" and my progeny ['itrah], the members of my Household [Ahl al-Bayt]. If you hold fast to them, you shall never go astray. These two will never separate from each other ".(until they meet me at the Pond [hawd] (of Kawthar

:Some of its references

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□□

بِسْمِ اللَّهِ الرَّحْمَٰنِ الرَّحِيمِ

In the Name of Allah, the All-beneficent, the All-merciful

The invaluable legacy of the Household [Ahl al-Bayt] of the Prophet (may peace be upon them all), as preserved by their followers, is a comprehensive school of thought that embraces all branches of Islamic knowledge. This school has produced many brilliant scholars who have drawn inspiration from this rich and pure resource. It has given many scholars to the Muslim ummah who, following in the footsteps of Imams of the Prophet's Household ('a), have done their best to clear up the doubts raised by various creeds and currents within and without Muslim society and to answer their questions. Throughout the past centuries, they have given well-reasoned answers .and clarifications concerning these questions and doubts

To meet the responsibilities assigned to it, the Ahl al-Bayt World Assembly (ABWA) has embarked on a defense of the sanctity of the Islamic message and its verities, often obscured by the partisans of various sects and creeds as well as by currents hostile to Islam. The Assembly follows in the footsteps of the Ahl al-Bayt ('a) and the disciples of their school of thought in its readiness to confront these challenges and .tries to be on the frontline in consonance with the demands of every age

The

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arguments contained in the works of the scholars belonging to the School of the Ahl al-Bayt ('a) are of unique significance. That is because they are based on genuine scholarship and appeal to reason, and avoid prejudice and bias. These arguments address scholars and thinkers in a manner that appeals to healthy minds and .wholesome human nature

To assist the seekers of truth, the Ahl al-Bayt World Assembly has endeavored to present a new phase of these arguments contained in the studies and translations of the works of contemporary Shi'ah writers and those who have embraced this sublime .school of thought through divine blessing

The Assembly is also engaged in edition and publication of the valuable works of leading Shi'ah scholars of earlier ages to assist the seekers of the truth in discovering

the truths which the School of the Prophet's Household ('a) has offered to the entire .world

The Ahl al-Bayt World Assembly looks forward to benefit from the opinions of the .readers and their suggestions and constructive criticism in this area

We also invite scholars, translators and other institutions to assist us in propagating .(the genuine Islamic teachings as preached by the Prophet Muhammad (S

We beseech God, the Most High, to accept our humble efforts and to enable us to enhance them under the auspices of Imam al-Mahdi, His vicegerent on the earth .((may Allah expedite his advent

We express our gratitude to Professor Ayatullah Muhammad Taqi Misbah Yazdi, the author of the present book,(١) and Mansoor Limba, its translator. We also thank

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١ - Muhammad Taqi Misbah Yazdi, Nazariyyeh-ye Siyasi-ye Islam (Qanunguzari), compiled and edited by Karim Subhani (Qum: Imam Khomeini Educational and .Research Institute, Summer ١٣٨٠ AHS (٢٠٠١)), vol. ١, ٣٣٥ pp

our colleagues who have participated in producing this work, especially the staff of .the Translation Office

Cultural Affairs Department

The Ahl al-Bayt ('a) World Assembly

Introduction

بِسْمِ اللَّهِ الرَّحْمَٰنِ الرَّحِيمِ

In the Name of Allah, the All-beneficent, the All-merciful

أَلْحَمْدُ لِلّهِ رَبِّ الْعَالَمِيْنَ وَ صَلَّى اللهُ عَلَى سَيِّدِنَا وَ نَبِيِّنَا مُحَمَّدٍ وَ آلِهِ الطَّاهِرِيْنَ وَ لَعْنَةُ اللهِ عَلَى أَعْدَائِهِمْ أَجْمَعِيْنَ

All praise is due to Allah, the Lord of the worlds, and may the blessings of Allah be upon our Master and Prophet Muhammad, and his pure progeny, and may the curse .of Allah be upon all their enemies

One of the most fundamental and essential questions in political philosophy is the question of exigency of government and state. The existence of an established government has been considered to be among the initial stages of departure of human life from its primitive and nomadic form, formation of human societies, and structural transformation in human life. Only a small group in the past and in the ۱۹th century—such as Claude Henri de Rouvroy Saint-Simon (۱۷۶۰-۱۸۲۵) and Pierre Joseph .Proudhon (۱۸۰۹-۶۵)—believed in the abolition of government from society

According to Saint-Simon, the human mind and intellect has the capability to relieve society from peril and organize it. In the opinion of the anarchists and those who oppose government, man has a pure nature that urges him to accept good desires and pleasant demands. This group also believed that a government is not in harmony with human freedom, and the preservation of human dignity and freedom

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.requires the uprooting of government from man's life

Sociological studies show that man has always, and under all circumstances, regarded the formation of state and government as indispensable and based on his natural disposition [fitrah] and intellect ['aql], because of man's basic need of company and an innate inclination toward collective living. It is only under the aegis of social life and a cohesive organization, in which the rights of all are respected, that man can subsist. Otherwise, humanity will plunge into chaos, barbarity, savagery, injustice, .jungle-like inequality, and lawlessness

The forms of government and the existence of fundamental differences in the structure and approach of grand administrative systems of societies are based on different epistemological systems, various worldviews and their concept of human beings. If a human being is considered as a mere physical body, the ultimate

aspirations for him would be to be well provided materially and his welfare, comfort and happiness be ensured. From this perspective, all efforts would be directed toward .animal needs and pleasure

However, if we treat man as superior to materiality, and lay the foundation of a political system based on the multi-faceted material and spiritual dimensions of human existence, a government would pursue man's material welfare and spiritual ascension. It is through this criterion and outlook on man and the choice of ideals that we shall examine the political thoughts as well as the performance of governments; because the origin of political thoughts is the very insight and ideal and without them political

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.thoughts have no essence

Nowadays, in the realm of political discussions, only a few pay attention to the fundamental perspective on man and his sublime aspirations. The sociological approach focuses mainly on the material benefits totally sidetracking human aspiration and insight. Yet, it must be noted that in the school [maktab] of the prophets ('a),(۱) who were the true custodians of the establishment of exalted humane systems, optimism and idealism have been the foundation of movement and transformation. It is for this reason that through a comprehensive perspective consistent with the Qur'an, we realize that the creation of man, life and death, the sending down of the prophets ('a), and socio-religious systems are all based on a purpose, and the axis of all activities and programs, including the setting up of .government, is guidance [hidayah] toward that basic purpose

As such, governments must be set up not only for the physical administration of societies but for their spiritual growth as well. One-dimensional governments strive only for the material welfare and comfort of people. If, however, they are in pursuit of man's material comfort and spiritual ascension, they will also engage in guiding him. Man possesses God's spirit, and the essence of his existence consists of spiritual and celestial dimensions beyond the base material ones. To confine him to physical

.administration without spiritual guidance is tantamount to belittling him

If the ultimate goal of government is the good and of man (in this world) and attainment of divine proximity [qurb-e ilahi] and the

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The abbreviation, "'a" stands for the Arabic invocative phrase, 'alayhi's-salam, - ۱ 'alayhim'us-salam, or 'alayha's-salam [may peace be upon him/them/her], which is used after the names of the prophets, angels, Imams from the Prophet's progeny, [.and saints ('a). [Trans

axis of government is revolved around the guidance of mankind, undoubtedly the one most worthy to govern people is he who is the most aware of the real concerns and interests of man and perfectly cognizant of the dimensions and aspects of his existence, and that is nobody but God. The corollary of rational proof [burhan-e 'aqli] which is also confirmed by verses of the Qur'an is that the perfection of man lies in obedience to the One who is fully aware and omniscient of the truth behind him, this world and the hereafter, and the mutual link between him, this world and the hereafter, is nobody but God. So, worship and guardianship inevitably belong to Allah .alone

That is, the Sole Master of man is God, and sovereignty of other than God, only if it is anchored in His will and permission, will be legitimate. As such, the theory of the guardianship of the jurist [wilayah al-faqih], which is the axis of the Islamic government, needs to be established during the period of occultation [ghaybah] of the infallible Imam ('a). It is a theory which in recent centuries has drawn the close attention of Islamic scholars and jurists [fuqaha], and has reached its apex during recent decades. In comparison to the negation of religious authority, it turned out to be a useful, dynamic and socially transforming theory in the scene of the world of .politics

The Muslim world, during this contemporary era, has witnessed two truly momentous phenomena. One is

the negative view on politics and religious authority. This perennial view, which permeates all religions particularly Islam and leads to the political isolation of religious thought and the decrease of religious movement, is a meta-religious onslaught that requires the scholars and intellectuals in the Muslim world to engage in elucidating and fortifying the pristine religious beliefs through profound and serious studies in .order to be equipped with rational defense against it

The second phenomenon is the presence of political thought based on wilayah al-faqih. Though, theoretically, this phenomenon has many precedents and different variations, its actual and concrete practice is traceable to the victory of the Islamic .Revolution

The Islamic Revolution of Iran—after a long and persistent struggle—attained victory under the wise and ingenious leadership of Imam Khomeini (q)(١), and through the overwhelming vote (٩٨.٢٢ ٪) of the Muslim people of Iran, the Islamic Republic was established. After the victory of the Islamic Revolution, a constitution based on Qur'anic verses and luminous laws of Islam was codified by a group of mujtahids,(٢) Islamic scholars and experts of the nation which, as acknowledged by legal authorities and experts, is regarded as one of the most advanced constitutions in the .world

Up to this stage, the legal standing of the Islamic Republic was specified and fixed, and wilayah al-faqih stipulated in the constitution as the symbol of Islam, the truthfulness of the system, the guarantor of its survival and immunity from possible danger, and, the main pillar of the Islamic Republic. However, the

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١- The abbreviation, "q" stands for the Arabic invocative phrase, quddisa sirruh [may [.his soul be sanctified], which is used after the names of pious people. [Trans

٢- Mujtahid: an authority on the divine law who practices ijtihad, i.e. "the search for a correct opinion in the deduction of the specific provisions of the law from its principles

[.and ordinances." [Trans

events after the Revolution, the entanglement of the intellectual revolutionary forces with current problems, and the emotional, exaggerated and superficial presentation of wilayah al-faqih resulted in an improper scientific study, examination and .elucidation of this issue

Nevertheless, the Islamic system successfully handled the problems and society moved toward peace and stability. Due to the critical inquiries of theoretical rivals, more attention was paid to it and its various angles were elucidated by intelligent and .wary scholars who were well aware of the conditions of the time

In view of the exigency to explain: (i) the Islamic political theory and present its position in political systems; (ii) to deal with the existence of doubts, concerns and intellectual challenges behind this theory; and, (iii) to confront the pervasive efforts of the external and internal enemies in opposing this wilayah al-faqih system; the wise, vigilant scholar struggling to defend and guard the sanctity of religion and revealed teachings, His Eminence Ayatullah Muhammad Taqi Misbah Yazdi (may Allah prolong his sublime presence), presented a series of discussions on Islamic political theory .before sermons [kutbahs] of the Friday congregational Prayer of Tehran

The present volume is the transcript of the said discussions compiled and edited by Mr. Karim Subhani and presented to you, dear readers, in two volumes (legislation and statecraft). It is hoped that this book is accepted by the concerned authorities and approved by Hadhrat Wali al-'Asr [His Holiness, the Master of the Age] (may Allah the .(Exalted, expedite his glorious advent

Imam

Khomeini Educational and Research Institute

(Tir ٢۶, ١٣٧٨ AHS (July ١٧, ١٩٩٩

Introduction

Undoubtedly, one of the achievements of our Revolution and political system is the Friday congregational prayer [salat al-jum'ah], which has innumerable blessings for the Islamic ummah. Among its secondary benefits is the communication of necessary teachings and information to the people during the two sermons and the lectures before or between the sermons in different cities and towns. Throughout the years after the Revolution, scholars and orators have presented to the Friday prayer congregation, and the rest of people through the media, valuable information on belief, education, economic issues and other academic needs.

I also have the honor of lecturing on the subject, "Monotheism in the Ideological and Value System of Islam" whose transcription has been published as a book and offered to esteemed readers.(١) On the insistence of my colleagues, I am here to deliver a series of lectures on "Islamic Political Theory". I hope that God, the Exalted, helps me in this important task and inspires me with that which is pleasing to Him and beneficial for the Islamic ummah, so that I might eloquently convey the same to this martyr-rearing and honorable nation.

The subject of our discussions is comprehensive and broad in nature, covering many topics on different levels and in various forms—ranging from the easy and simple to the profound and academic. Of course, from the beginning of the movement of the eminent Imam (q), i.e. ١٣٤١ AHS (١٩٦٢), up to now, these discussions

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١- Muhammad Taqi Misbah Yazdi, At-Tawhid or Monotheism in the Ideological and Value Systems of Islam, trans. N. Tawhidi (Tehran: Islamic Propagation Organization, n.d.). [Trans.]

have been presented in different forms. Articles and books have been written, speeches delivered and talks held. Yet, only a few systematic discussions beneficial

for the average person, responsive to the needs of the youth and various strata of people have been undertaken. Thanks to Allah, our nation occupies an eminent cultural position. In recent years especially, it has improved and progressed .considerably, understanding many profound and complex issues very well

Nevertheless, the scientific and technical language is confined to the academic centers, universities and seminaries. The language of conversation with the masses must be devoid of scientific and complicated terminology so that a majority of people can benefit from the discussions. Of course, it must be noted that a discussion under the title, "The Political Philosophy of Islam" can be so extensive that it cannot be covered even in a hundred sessions. As such, considering our time constraint and the sessions taken into account, we have no option but to choose topics for discussion which are needed by society and in connection with which questions and doubts have .been raised

Since the topic "The Political Philosophy of Islam" consists of three terms, each of them could be studied and examined separately. "Political philosophy" has numerous equivalent terms such as "the philosophy of political science" and "political philosophy vis-à-vis political science". However, in brief, what we mean by "political philosophy" in these discussions is the elucidation of the Islamic theory on government and politics ,that is based on specific principles

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and the Islamic philosophy of the Islamic government can only be explained and .justified according to these principles

Islam and Political Theorizing

Once we say that Islam has a particular point of view about politics and governance founded on principles acceptable to Islam, this question is posed: Must religion have a particular viewpoint about politics and government for which Islam has to present a political theory? This is the same serious and known question which has been posed for centuries in various countries and societies. In our country this question has also

been raised since the time of the Constitutional Movement(١) onward and many .discussions have been conducted along with it

Of course, the statements of the late Imam ('a) and the famous slogan of the late Martyr Mudarris(٢)—"Our religion is our politics and our politics is our religion"—played a role in fortifying our political thought, and this question has already been answered for our people. However, to elucidate the political theory of Islam and the manner of .involvement of religion in politics requires in-depth study and discussion

In Western culture, religion is not comprehensive in nature; it is defined in a manner that does not encompass the domain of sociopolitical issues; it only bespeaks of the relationship between man and God, and depicts the personal and individual communion of the former with the latter. Accordingly, sociopolitical and international issues, state-people relationship and international relations are beyond the domain of the relationship between man and God, and are therefore alien to religion. On the

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١- Instigated by a proclamation issued by two religious authorities (Ayatullah al-'Uzma Muhammad Kazim Khurasani and Ayatullah al-'Uzma 'Abd Allah Mazandarani) which reads, "The constitution of each country limits and conditions the will of the ruler and the offices of government so that the divine ordinances and common laws based on the official religion of the country are not transgressed," what has become known as the Constitutional Movement, Constitutional Revolution or simply Constitutionalism (١٩٠٥-١١) took place due to the chaotic situation in Iran at the end of the nineteenth century and the beginning of the twentieth century, the popular protest over the tyranny of the governors and agents of the dictatorial regime and the unruly officials of the government, the weakness and ineptitude of the then king Muzaffariddin Shah, and finally the rising awareness among the people and revolt of the clerics and 'ulama'. Years of struggle by the people culminated in the victory of the Constitutional [.Revolution in ١٩٠۶. [Trans

٢- Sayyid Hasan Mudarris (١٨٥٩-١٩٣٨) was one of the greatest religious and political figures in the recent history of Iran. He received his elementary education in Isfahan

and then traveled to the cities of the holy shrines (in Iraq) where he received further education from prominent scholars and after attaining the level of ijtihad, he returned to Isfahan and began teaching Islamic jurisprudence [fiqh] and its principles [usul]. In ١٩٠٩, at the time of the Second National Assembly, he entered Parliament having been chosen by the maraji' at-taqlid and the 'ulama' of Najaf as one of the five mujtahids who were to oversee the law-making procedures. At the time of the Third National Assembly, he was chosen as a Member of Parliament. When Rida Khan carried out his coup d'état, Mudarris was arrested and sent into exile, but after being freed he was again chosen by the people and again entered the Parliament. In the Fourth National Assembly, he headed the opposition majority against Rida Khan. At the time of the Fifth and Sixth National Assemblies, he opposed the proposal for the establishment of a republic, which Rida Khan was in favor of, to replace the constitutional government, and he dissuaded the Parliament from approving it. He was resolute in his stand against the stubborn Rida Khan, such that the Shah hired an assassin to kill him and when he escaped the attempt, he sent him first into exile in the remote town of Khaf near the Afghan border, and later in Kashmar, where eleven years later in Ramadan ١٩٣٨, the agents of the Shah poisoned him. In this way, one of the greatest political and religious personalities of Iran was martyred in the way of Allah. Mudarris possessed outstanding qualities, and even though he was a man of great political and [.religious influence, he led a very simple life. [Trans

contrary, according to Islam, religion is universal in nature; encompassing all individual and social issues of man, including man's relationship with God and his .fellow creatures; and all domains of sociopolitical and international issues

The reason for this is that according to Islam, God is the Ruler of the world and mankind. Thus, the political, economic, educational, and administrative spheres and other issues related to the life of man are within the totality of the laws and values of .religion

Islamic Political Theory being "founded" by Islam

After accepting that Islam has a viewpoint about governance and politics and

attributing a specific theory about it to Islam, some questions regarding the nature of this theory can be raised. Is this political theory of Islam initiated, i.e. “founded” [ta’sisi] by Islam, or something just approved and emulated by Islam? In other words, has Islam itself initiated this theory and presented it as a theory revealed by God like religious ordinances, “sent down by Allah”? Or, has Islam only approved a theory in ?this context

Replying to the above question, we have certain cases where the conduct and behavior of certain men of wisdom has been approved by Islam. Technically, Islam’s approval here is called “approval of the way of the wise”. For example, there are transactions which people undertake—including buying and selling, renting, trading and others which are recognized as rational behavior conceived by the people and .approved by religious law

We need to know whether men of wisdom have compiled their views on governance and politics which Islam

has approved and affirmed, or, presented and advanced its own theory formulated on divinely ordained Islamic rules vis-à-vis other theories and views. In reality, Islam has initiated and founded a theory in relation to politics and governance with a set of sociopolitical principles and modes of application, and not merely approved and .affirmed the views and opinions of the wise

Those who are familiar with the various problems related to government and political philosophy know that there are different opinions in this regard. One of them is called “theocracy”, which means “divine rule”. This theory was utilized during the Middle Ages in Europe by the Church. The Church, Roman Catholic in particular, claimed that it was ruling the people through authority granted by God. On the contrary, some Christian sects held that the religion of Hadhrat ‘Isa (Jesus Christ) (‘a) had nothing whatsoever to do with political issues, and so they advocated the separation of .church from state

However, the Catholic establishment, in particular during the Middle Ages, was a proponent of the involvement of religion in politics and governance, regarding the government as rightfully belonging to the Papacy. They believed that the Church had been given the authority by God to rule over people according to divine ordainment, while the people were duty-bound to obey the orders of the Pope as authorized by God. This form of government was called "theocratic government."

When it is said that except the governments established by people, dose Islam have a particular theory

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and point of view and when it proposes the divine government, does the Islamic government mean the same "theocratic government" established in the West, and does "divine rule" also mean the same?

Has God granted extensive prerogatives to the ruler to rule over people however he likes, and are people obliged to act upon his will and desire? According to the divine rule and guardianship of Islam, Islamic political thought, and, the theory of wilayah al-faqih, can the jurist-guardian [wali al-faqih] rule over people in whatever way he likes? Does he have the right to propose and implement any law and decree according to his opinion? Are people obliged to act upon his orders? This is a very serious question which requires proper study and analysis so as to avoid misunderstanding and misinterpretation.

In brief, the reply to the above question is that the divine rule we believe in and Western theocracy are poles apart. It is hereby repeated that divine rule according to Islam is not the same theocratic government which Christianity, Catholicism in particular, held as granted to God and the ecclesiastical authorities.

Most of political theorists divide governments into two types, viz. dictatorial and democratic each of which has different variation. The first type refers to a government in which the ruler interferes in all affairs whenever he wishes; authoritatively orders; resorts to various means based on terror, violence and military

force in order to exact obedience from the people. Opposed to this type of government

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is the democratic government, which is formed according to the will and approval of the people. People choose rulers of their own freewill, while rulers are duty-bound to act upon the will and desire of the people. In fact, their legitimacy emanates from the .will and desire of the people

The Nature and Essentials of Islamic Government

Those who have accepted the above classification by the West and believe that governments are classified only into two—either dictatorial, or democratic and popular, ask: Is the Islamic government dictatorial? Does he who attains power, e.g. in our time the wali al-faqih, impose his authority on the people by force and rule according to his whims and caprice? Or, is it the democratic government of the West ?which is the opposite of dictatorship? Or, is it a third form of government

According to the twofold classifications that have been accepted, the Islamic government is one of the two above mentioned types which is either dictatorial or popular. In case it is a popular government, it has to follow the same methods and ways existing and acted upon in Western countries and democratic governments. Or, it is not an Islamic, popular government and it is dictatorial and is based on the desire and will of an individual, and there is no third option. It is expedient for us to answer this important question and declare whether the Islamic government is dictatorial, .akin to Western democracy, or follows a third option

Among the questions being raised are the following: What are

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the preliminaries and main pillars of the Islamic government? Which elements must be preserved and observed in ruling and managing society so as to actually realize the Islamic government? Those who are familiar with our culture and jurisprudence

know, for example, that there are some essentials of prayer which if abandoned intentionally or unintentionally, invalidate the prayer, for, without them, the essence .and identity of prayer cannot be realized

The Islamic government is also founded on certain pillars. In the presence of those pillars and columns, we call a government “Islamic”. If there is some defect or deficiency in those pillars and columns, the Islamic government will not be realized. Now, in view of the vital role of these pillars and columns, it is necessary for us to be aware of them, because unless we recognize the criterion and basis of the Islamic nature of government will be not be able to distinguish the form and nature of an Islamic government from non-Islamic governments. It is therefore necessary to .answer to this serious question

The form of Islamic government and the scope of prerogatives and duties

Another question raised is: Has Islam determined a specific form of government? As you are aware, there are many forms of government extant today, e.g. absolute and .constitutional monarchy, presidential and parliamentary republic, and theocracy

Has Islam accepted one of these forms, determined a specific form of government which is different from the abovementioned forms, not determined a specific form, or only determined a set of values and criteria of government which must be observed

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anytime and in every form of government? Islam has ordained that a government must observe justice, but the form observed depends upon the circumstances of time and space. Islam is not concerned with a specific form, as the proper form of .government, according to Islam, depends on the observance of the criteria

Assuming that Islam has determined a specific form of government, is this form of government according to Islam fixed and unchangeable, or a form which is more or less changeable? These kinds of questions are raised in relation to the form of Islamic .government which must not remain unanswered

Another question which is posed in connection with the philosophy of government is: What are the prerogatives and responsibilities of the ruling body or the ruler, in the Islamic government? Governments differ from one another in terms of prerogatives and responsibilities. In some governments, the prerogatives and duties of the government are limited. The government is only obliged to perform certain functions. The overall function of preserving the system is delegated to the government while .other functions are given to the people

In some forms of government, however, the government has vast prerogatives and equally heavy responsibilities. It assumes important responsibilities which it has to discharge. It can neither delegate them to the people nor shirk its duties because it is the people's right to demand the performance of those responsibilities and duties from the government. It must be clarified that in the political philosophy of Islam, what prerogatives

and duties dose Islam have set for the government. Undoubtedly, the performance and duties must be proportionate and balanced. It is not correct to delegate a duty to a person without providing him the necessary grounds to discharge the duty. So, the ?next question is: What duties and prerogatives does the Islamic government have

The role of people in Islamic government and some other questions

Among the very serious questions which are raised today in society and periodicals is this: What is the role of the people in the Islamic government and what are their duties and prerogatives? Finally: What was the form and structure of the government during the early period of Islam, such as the time of the Holy Prophet (s),(١) the time of the Commander of the Faithful ('a) and the initial part of Imam Hasan al-Mujtaba's ('a) time? Similarly, to what extent were the governments of the Umayyads and the 'Abbasids that ruled over Muslim territories Islamic; and, which of the abovementioned governments we can present as the Islamic government? How has the formative course of Islamic governments throughout history led to this form of Islamic government, which finally materialized in Iran by the blessings of the Islamic

?Revolution

Of course, alongside the aforesaid questions, secondary questions are also raised, some of which are as follows: Is our government one hundred percent Islamic, and does it fulfill all Islamic standards and essentials of an Islamic government? In case this government possesses all the essentials of an Islamic government, has it discharged all its duties, fulfilled its mission

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The abbreviation, "s", stands for the Arabic invocative phrase, sallallahu ‘alayhi wa – ١ alihi wa sallam [may God's salutation and peace be upon him and his progeny], which [.is used after the name of the Holy Prophet Muhammad (s). [Trans

and faithfully observed all values? Finally, what are the defects and deficiencies of this ?government

Methodology of discussing Islamic political theory

Before answering questions, clarifying doubts and discussing the political philosophy of Islam, it is necessary to state which mode and method we shall choose to examine and tackle the subject. Technically speaking, what shall be the methodology of this discussion? Since this discussion is introductory in nature it must be addressed at the outset. Will the method of our discussion be intellectual [ta‘aqquli] with us offering ?rational foundations and proofs to elucidate the Islamic theory

Or, will the method of discussion be purely devotional [ta‘abbudi] and narrative [naqli]? In other words, shall the presentation of the structure, principles and policies of the government be based on a set of religious accounts, Qur'anic verses and traditions [ahadith]? Or, is Islamic polity also basically a trial-and-error phenomenon whose correctness or otherwise must be examined in the practical experience? Our method of discussion will be an empirical one and the criterion of judgment and opinion will be .the experience of Islamic governments

Since our discussion has rational and intellectual dimensions, its method and manner

can be divided into two, viz. (۱) polemical method [shiveh-ye jadali], and (۲) evidential method [shiveh-ye burhani]. Once we want to examine an issue from a rational point of view, we agree upon a set of preliminary principles and discuss it on the basis of the .same commonly accepted principles so as to solve the issue

On the contrary, in the evidential method all the preliminary points

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are utilized in the argument so that the discussion is based on original cases, certainties and axioms for which firm argument and solid proof are established. Undoubtedly, to choose this method will prolong the discussion. For example, if we try to prove the need to observe justice in an Islamic government by using the evidential method, we will begin by explaining the essence of justice, which will instantly be followed by a long list of questions: How will justice be implemented? Is justice reconcilable with freedom or not? Who is supposed to determine the criterion of ?justice? Should the criterion of justice be determined by God or the people's intellect

After addressing the above questions, it will be asked: In these cases, to what extent does the intellect have the right to judge? Are the judgments of the intellect relative or absolute? The discussion will continue in this manner until finally the primary principles and epistemological issues will also be raised which will need settling, too. For example, what in essence is intellect? What is its approach and indication? In what method does the intellect make inference? To what extent are justice and its decree credible? Naturally, if we want to address all these issues as well as primary issues, .we have to discuss and examine an array of different sciences

The evidential method of discussion is honorable, certain and respectable, but as we have said, in applying it many issues pertaining to numerous sciences must be referred to. In addition

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to the fact that only a few individuals are well-informed of a set of sciences, and

experts in every field can master only a set of limited information, it is an onerous task and many years would be spent in examining each of these issues via this method. In examining and explaining our subjects also, choosing the evidential method in all cases and following up each of the issues until we arrive at the axiomatic foundations and principles, will not be possible within the limited time we have.

As such, we shall resort to the evidential method only in cases where it is possible to present simple, uncomplicated and less extensive proofs, and employ the polemical method in other cases. The polemical method is the most appropriate method and in reality it is the shortest way to obtain results. It is a general and comprehensive method to convince others. In some places of the Qur'an, God, the Exalted, has resorted to it in convincing the enemy by presenting His firm and solid proofs, and He has also invited us to talk and dispute with others by using the same method:

(ادْعُ إِلِيٰ سَبِيلِ رَبِّکَ بِالْحِكْمَهِ وَالْمَوْعِظَهِ الْحَسَنَهِ وَجَادِلْهُم بِالَّتِی هِیَ أَحْسَنُ)

"Invite to the way of your Lord with wisdom and good advice and dispute with them in a manner that is best."(١)

Session ٢: Importance and Exigency of Discussing Islamic Political Theory

point

During the previous session, I mentioned to the dear listeners the list of topics on the Islamic political theory and the themes chosen for discussion in this regard

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١ - Surah an-Nahl ١۶:١٢۵. In this volume, the translation of Qur'anic passages is adapted from Sayyid 'Ali Quli Qara'i, The Qur'an with a Phrase-by-Phrase English Translation (London: Islamic College for Advanced Studies Press, ٢٠٠۴). [Trans.]

so that they would know what subjects will be tackled in this series of talks. Today, as much as God, the Exalted, will allow, we shall talk about the importance of this discussion and its exigency in the present conditions of our society.

In order to clarify the urgency of this discussion, I have no option but to glance briefly at the history of our country and other Muslim countries during the recent past. As you know, throughout history, the materialist, hegemonic, domineering, and tyrannical minority has always been the cause of most tumults and seditions. The more human life becomes centralized, the more social systems advance on the basis of relevant rules and sciences, the pursuits (of the minority) are undertaken in a more scientific .form and based on more precise rules and regulations

At any rate, after World War II the global powers concluded that there were two power blocs in the world—the capitalist bloc in the West and the Marxist communist bloc in the East—and given the victories they attained during the war, they tried to impose their authority on the rest of the world and resisted the emergence of any .other power to assume an air of dignity and rise up against them

Meanwhile, throughout history, those who stood up against the sedition-mongers and corruptors have only been the prophets ('a) and their followers. It was these religious ones who did not, at any cost, submit to tyrants and oppressors. For this reason, the tyrants regarded the prophets

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a) and their followers as their enemies. However, after World War II, with the final') expulsion of the Church from the political scene (which manifested religious power in Europe), they did not foresee another power emerging against them until the last three decades, when they unbelievingly faced the astonishing movement in the .Middle East and Iran

Initially, they thought that the movement started in Iran was like the other Islamist movements which sporadically sprouted in some Muslim countries and were easily suppressed. They thought that by means of the specific methods they used and the experience they had acquired, they could successfully thwart it. As they proceeded they observed that this movement was different from others. Finally, thanks to the

Islamic movement in Iran, a power emerged in this region, which, without relying on the Western and Eastern blocs, without using force and activities akin to coup d'états and violent harsh military moves, succeeded in toppling a Western puppet (king) and .establishing an Islamic government in Iran

Naturally, given the experiences they had acquired in combating the religious individuals, they resorted to different activities and plots, which you all know, and there is no need to mention them in detail. We shall only mention those plots. At the beginning, they ignited internal conflicts with the hope of paving the ground for the coming to power of a military junta that would protect the interests of the West. However, they observed that the people enjoyed such extensive power that the activities

of splinter groups could not pose any danger to the Revolution. After experimenting with various plots and conspiracies including economic sanctions, global media propaganda against Iran, and the eight years war imposed on our people, they did .not succeed in overthrowing the Islamic state

The youth and the long-term cultural plot

Since the enemies failed to succeed in any area, they pinned their hope in one thing and that was a long-term cultural program. Along this line, they tried to gradually exert influence inside the country through various means. Having great experience in this area too, they tried to set up a center for the promotion of their ideas and views through which they extended a wave of propaganda to the various strata of society and slowly paved the ground for what they liked. Naturally their actions in this case as .in others, were based on scientifically calculated grounds

They witnessed the generation of the Revolution getting old and the future belonging to the youth—youth, who lacked sufficient information about the Pahlavi regime and its atrocities, and the sacrifices of the people before and after the Revolution; youth, who were only aware of their own demands, some of which were materialistic in

nature—so they imagined that it was possible to exert influence on this great stratum which constituted the bulk of society and to whom belonged the future, and after a few decades to gradually pave the way for a protégé government that would protect their interests. In order to pave the ground for such a sinister

aim, they conducted studies to identify the main factor behind people's support for the Islamic government, and found that they were willing to endure suffering, adversity, inflation, shortage, bombardment, and sanctions but not relinquish support for this government, which made them rightly conclude that this general support of the people stemmed from their belief and religion.

The triple axis of the cultural plot

The people of Iran are followers of the school [maktab] of the Ahl al- Bayt ('a), and take as their model the pure Imams ('a) and the Doyen of the Martyrs ('a) (in particular). The belief and conviction that they have to sacrifice their lives, properties and all that is dear to them for the sake of realizing the Islamic ideals, are planted in their hearts and have become part of their beings. However, the enemy is striving to weaken this conviction. They want to do something to make this future generation not become a votary of religious government.

They are inculcating in the minds of the young generation ideas that should weaken their belief in this kind of religious government, and in those who rule in the name of religion. This is because the people and the youth believe that religion must govern their lives, and the helm of government must also be in the hands of religious scholars and religious individuals headed by the wali al-faqih. So long as this belief occupies a special place in the hearts of the youth, there will be no chance of overthrowing this Islamic government.

Thus, this

belief must be uprooted, but how? It is possible to spread ideas by means of a group of intellectuals. So they created a center within the cultural centers and universities to popularize and deceive certain individuals and persuade them to promote such ideas in society. In this manner, through the spread of these ideas, people, especially the young generation will entertain a doubt in their hearts and their firm belief in the .Islamic government and the wali al-faqih will be undermined

The weakening of the young generation's belief in the Islamic government would be ideal for them, because once there is doubt in the hearts of the youth, a ۱۳-year old youth will no longer be willing to put a hand grenade in his body and go underneath a tank. Such acts are only possible when the youth have indomitable faith in the hereafter, Reckoning and Book (of Account), and in the correctness of the path and values chosen. Once there is doubt in the hearts of the youth, it will pave the ground .for the enemies' objectives

It was in line with this goal that they started their multifaceted movement through their disguised agents and scientifically calculated methods. They started their :movement based on several axes

Promotion of the Notion of Separation of Religion and Politics .۱

The first axis of their movement and scheme was the separation of politics and religion. Many grounds were paved in order to promote this notion. For centuries this was done in the Western hemisphere and Europe. Many books were written and extensive studies were

conducted. As a result of those activities in the West, the issue of secularism and the separation of church and state came to the fore. In order to attain that objective here, the ground needed to be paved. Of course, some grounds were also fertile. Such grounds and notions existed among those who played a role in the Revolution and also assumed responsibilities in the Islamic government afterwards. They believed in a boundary between religion and politics, delivered speeches and wrote books. To

strengthen this inclination by means of cultural activities done in the West was not .that problematic

Thus, one of the axes of the enemy's cultural activities is the promotion of this notion of separation of religion and politics. Of course, not all people will be influenced by this thinking. Those who lost their loved ones and property for the sake of the religious government, and endured difficulties will not easily be influenced by this thinking, especially in view of the fact that the Imam's celestial voice still reverberates in their ears, and the words narrated from the late Mudarris—"Our religion is our politics and .our politics is our religion"—will not be forgotten that soon

Denial of Wilayah al-Faqih .۲

The second axis of hostile activity and xenomaniac [gharbzadeh](۱) intellectuals is to propound the idea that even when religion interferes in sociopolitical affairs, implements religious laws in society and observes religious values in politics, the religious government does not mean government of the fuqaha. It is enough that laws to be ratified in

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Xenomaniacs: those infatuated with foreign and especially Western models of - ۱ culture. This is the translation of a Persian term, gharbzadegan or gharbzadeh-ha, popularized by Jalal Al Ahmad (d. ۱۹۶۹) who was a writer of great influence in his book Gharbzadegi ("Xenomania" or "Occidentosis"). See its English translation, R. Campbell (trans.) and Hamid Algar (ed. and anno.), Occidentosis: A Plague from the West [.(Berkeley: Al-Mizan Press, ۱۹۸۴). [Trans

Parliament should pass through a filter to ensure that they are not against religion. The fact that these laws are not anti-religious means that the government is a religious one, because all the laws consistent with religion are implemented. The .religious government is nothing different

So, the second axis is that if they fail to convince all people that religion and politics

are separate from each other, they will accept that religion and politics are joint, but say that religious government means the religious laws must be implemented whether the implementer has anything to do with religion or not. Whoever people elect for the implementation of religious laws will be the religious ruler. So, the religiousness of a government means that the religious laws are implemented, and .not that the ruler is religious, knowledgeable and a faqih

They acknowledge that religion has to interfere in politics, but do not accept that the implementer of religious laws must be a faqih or that the highest government post must be occupied by the wali al-faqih. The separating of religious government from the theory of wilayah al-faqih continues today as in the past. In newspapers, including national dailies and magazines, certain subjects are presented in different ways. The epicenter of this axis is formed in universities and other centers of gatherings, so as to influence those minds that still believe in the inseparability of religion and politics with the idea that a religious government is acceptable but wilayah al-faqih is not a

.corollary of the religious government

This axis of activity can easily effect the youth who lack sufficient familiarity with Islamic laws and fundamentals of jurisprudence, especially if it is linked with many cultural mechanics and widespread propaganda. Yet, there are many in society who will not be influenced by this thinking and continue to consider the wilayah al-faqih, the bedrock of the Constitution, as the pillar of their thinking and action. They still maintain that this revolution is rightfully recognized in the world as the Revolution of .Wilayah al-Faqih and the Government of Wilayah al-Faqih

Concern about the form of Wilayah al-Faqih .٣

In order to influence those who believe in wilayah al-faqih, they suggest the idea that wilayah al-faqih could have different connotations, and that the form of wilayah al-faqih implemented in Iran is alterable and subject to change, insinuating that, this form of wilayah, is not correct because it is inconsistent with principles of democracy

and liberalism. Something, they say, must be done in order to make wilayah al-faqih conform to democracy and values accepted by the present world. So, the axis of the third intellectual movement is to alter the form of wilayah al-faqih in the Islamic .Republic

The outcome of the discussion so far is that intellectually and theoretically, all efforts of the enemy and the Global Arrogance are focused on weakening this government in three ways. Practically, they have implemented certain programs, but the long-term program, which they hope the future generation in this country will accept, is an intellectual one. The first axis of

the said program is the promotion of the notion of separation of religion and politics .which will be accepted by a certain group

The second axis is to argue that religion and politics are inseparable but the religious government is separate from wilayah al-faqih. This theory may also affect a certain stratum of society. The third axis is to suggest to those who are firm and unflinching in their belief in wilayah al-faqih that wilayah al-faqih is acceptable but this form of wilayah al-faqih implemented in Iran must be altered. In sum, they are aiming to create a sort of doubt in the hearts of the youth, in a bid to weaken their belief in this system and its values. In doing so, a door will be opened for the Global Arrogance to .penetrate Islamic society and even Islamic government

Those who will be influenced by any of these three notions—wherever they are, whatever posts they occupy, whatever stratum of society they belong to, and whatever social standings they have—could be of great help to the Global Arrogance .in the attainment of its objectives

Our responsibility vis-à-vis the triple axis of the enemy's plot

In view of the fact that the enemy is concentrating its efforts around this triple axis, those who are attached to this system—and thanks be to Allah, the absolute majority of people are attached to this system, a manifestation of which is the march

demonstrations held occasionally, which astonish the world with the massive participation of the people—should be vigilant so that none of these

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plots succeed. For this they have to be firm in their acceptance of the theory of inseparability of religion and politics. They have to believe, that even if any other religion could be separated from politics, Islam cannot.

Secondly, they should be firm in asserting the fact that the religious government does not only mean the Islamic nature of the laws to be ratified by the Parliament, or their being not inimical to Islam. Instead, the bedrock of religious government is that the implementers of the law must be aware of and devoted to Islam to be the best proponents and implementers of divine laws. If it is not so, what is the benefit of a law written on a piece of paper yet not observed by its implementers?

Was it not written in the Constitution of the past regime that Shi'ism was the official school of thought [madhhab] of Iran? Yet, to what extent did this law influence the behavior of the government which was totally subservient to the non-believing, atheistic enemy?

As long as there is no authoritative and faithful implementer, anything written on paper will be of no benefit. Thus, if an Islamic law is passed by the Islamic Consultative Assembly, but the one occupying the highest government post is not attached to the law, nor has the intellectual, religious power or inclination to implement it, there is no guarantee that the said law will ever be implemented. So, it is important for us to strengthen our

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belief in the principle of wilayah al-faqih and to explain this theory on the basis of solid proof in order to fortify our faith, and convince our future generations that the Islamic government can survive only under the auspices of wilayah al-faqih.

Thirdly, they must be convinced that the form of wilayah al-faqih implemented in Iran,

for the past two decades, the same wilayah al-faqih ordained in the school of the Ahl al-Bayt ('a), cannot be altered. The third stage is a secondary issue which must be addressed after explaining the first two stages. Therefore, to attend to the two stages takes precedence, and as such, the subject of our discussion is entitled, "The ."Political Philosophy of Islam

The need to choose suitable methods to foil the enemy's plot

In view of what has been said about the goals of their cultural activities, the enemies have designed the following three types of plot and conspiracy: the separation of religion and politics, the separation of the religious government and wilayah al-faqih, and casting doubt on the correctness of operation of wilayah al-faqih in Iran. We will, thus, be confronting three groups of people. The first group consists of those who believe in the separation of religion and politics. According to them, the jurisdiction of religion is the temple, mosque and mosque, while the jurisdiction of politics is society .at large

Obviously, in dealing with such people a particular manner of discussion must be adopted. In dealing with those who acknowledge the religious government but has another view about the designation of its head, the

discussion must be in a different manner. Similarly, if a person does not believe in God at all, the discussion must be started by proving the existence of God and, thereafter, prove the general and particular apostleship. But in dealing with a person who believes in God and some prophets and does not believe in the Prophet of Islam (s), .the discussion must begin with the particular apostleship

Undoubtedly, whatever discussion we hold must depend upon the different levels and stages of acceptance of people. Some will have accepted certain principles and .reached successive stages. Others may not have accepted even the initial stages

Therefore, in examining and talking about the abovementioned situations, we require different methods of discussion. In other words, if we want to prove the existence of

God to a person who does not believe in Him, it is pointless for us to quote a verse of the Qur'an or a saying of Imam as- Sadiq ('a). That person does not believe in God, let alone believing in the Qur'an and ahadith! In guiding him, one has to use only rational .proof and the intellectual method

Those who accept the religious government have gone a step forward, and in dealing with them one has to present the content of religion acceptable to them. We have to cite a proof from that content of religion. As such, the sources of discussion shall be the Qur'an and Sunnah while the method and type of discussion shall be narrative and

historical. But once the talk is about the performance of the system, one has to refer to historical documents and accounts, and the narrative and religious argument will .be of no use anymore

The behavioral methods being used must be examined and assessed. Since our discussion has various dimensions, we cannot use only one method. In some of its dimensions we will have to use the rational method while in some others we will have to give religious proof, and yet in some other dimensions we will have to use the historical method and actual field studies. What has been said is for the consumption of those, who in the course of discussion may find fault and question, "Is the discussion rational or narrative?" For this reason, I shall point out that our discussion .has different aspects and each of them have to be examined by its particular method

The Definition and Jurisdiction of Religion

There is another basic issue here, which is of course, a separate subject for .discussion and investigation, so, mentioning it should suffice for the moment

The question is: What is the extent of religious jurisdiction? Does the jurisdiction of religion encompass all aspects of human life? Or, should some aspects of human life be delegated to the intellect, knowledge and will of the people. Before learning whether government and religion are related or not, and whether the separation of .religion and politics is true or not, we need to know religion first

Those who wish to examine at the outset, through

an external method, the principle of the need for religion and the extent of its jurisdiction in the life of man will question —Is politics a part of religion in Islam or not? In this context, their arguments deal with the extent of expectations from religion, and whether they should be maximum or minimum— that is, dose the jurisdiction at religion encompasses all arenas of human life or it just encompasses a part of it and most of the human live aspects should be left to the intellect; science and desires of .people

When the advocates of non-interference of religion in government defined religion, they acquired a definition of religion in keeping with the secularist inclination. For example, they said that religion is meant to organize the spiritual relationship between man and God. Or, in a somewhat broader and more extended sense, religion is something which can be influential in the otherworldly life—assuming that the otherworldly life exists—and in organizing the life of man in relation to the hereafter. Naturally, if religion is defined as such, it can easily be said, “What does politics have ?to do with religion

Politics has nothing to do with the relationship between man and God, for it only deals with the relationship between human beings, and is, therefore, beyond the jurisdiction of religion. Politics is related to the life in this world and has nothing to do with the other world.” In addition, if the jurisdiction of religion covers only the things which man is

incapable of understanding, it follows that wherever the intellect passes judgment, it is no longer within the jurisdiction of religion; jurisdiction of religion lies where there is !no place for intellect

If in presenting the definition of religion, we limit its jurisdiction and scope, confer all

matters to the human intellect and understanding, religion will not be needed in areas where our intellect is capable of solving problems. We will need religion only in cases which the intellect is incapable of understanding and solving. With the passage of time and the advancement and divergence of human life, the need for religion will decrease because, religion is meant to meet needs which the intellect is incapable of meeting. In the beginning, man could not benefit much from science and civilization. He was still in need of religion since he could not solve many problems with his .intellect

Gradually, his need for religion decreased and since recent years he seems almost free of its need. Yes, secondary issues which he could not understand with his intellect, and had no hope of solving them soon, he referred to religion. (Regrettably, it must be stated that some so-called Muslims have claimed that at this time when the human intellect has reached perfection, we have no more need for religion, revelation (.and devotional commandments

Given this outlook and explanation, it is concluded that politics has no relation with religion. Once we can solve and settle political issues by relying on the intellect and rational arguments and

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!investigations, we are no more in need of religion

What has been said is among the misgivings expressed in this regard to which we shall answer in brief. It must be stated that the definition they have given to religion, regarding it to be related only to the otherworldly life and relationship between man and God, is false and unacceptable. The claim that political issues of man have no relation with God and are beyond the domain of relationship between man and God is alien to the true nature of religion. Religion means the code of proper human conduct .according to the will of God

If in belief, in the acceptance of values and in his individual and social acts man acts in accordance with the will of God, he is religious. On the contrary, if his beliefs are

against the will of God, his accepted values are inconsistent with the values acceptable to God, his individual and social acts are contrary to that which are pleasing to God, and if he has any defect in any of them, his religion will be defective. .Religion, therefore, embraces all the above domains

The need to know religion through its sources

If we want to define religion, we have to see how the One who has revealed it and its followers define it. If we coin a definition that says sociopolitical issues are beyond the domain of religion, this is not the religion sent down by God. In order to know the religion of God, its scope, mission and aim, we

.have to examine its sources and content

Someone once said: "I do not accept Islam because the arguments being advanced to substantiate its authenticity are weak, or—God forbid—I have proof of its falsity and incorrectness." Such a claim is debatable. It is improper and illogical for someone to say with the assumption of accepting Islam that "Islam is that which I say and not what the Qur'an, the Prophet and the Imams have said, and to which the Muslims are attached." If a person wants to argue about the correctness or incorrectness of Islam, whether he adheres to it or rejects it, he has to know Islam first, by referring to the commandments of God, its Founder and Revealer, through the Qur'anic order to know religion and present its definition and jurisdiction, we have to refer to the religious sources, viz. the Book and the Sunnah, and we should not define religion according to our ill-founded opinion, or base it on the definition of an American or .European orientalists whose words do not constitute a proof for us

If a person wants to talk about Islam of the Muslims, he has to talk about the Islam which has been elucidated by the Qur'an, the Prophet (s) and the Imams ('a), and based on this Islam which originates in the Qur'an and Sunnah, he should define and state its jurisdiction, and not base it on an Islam defined by a certain orientalist, writer or statesman in a certain encyclopedia which is certainly

of no value to us. Islam confines the jurisdiction of religion to human intellect and understanding as one of the means of knowing Islam.

Meanwhile, once a person who has little knowledge of the Arabic language—though he has no knowledge of the exegesis, nay brief exegesis, of the Qur'an—refers to the Qur'an, he will realize that Islam has not neglected social issues but dealt with them. How can it then be said that religion is separate from politics?!

If religion is that which is revealed in the Qur'an, it embraces sociopolitical issues, deals with civil, penal and international laws as well as devotional matters and personal morality. It has prescriptions for family life, marriage, child-rearing, transactions, and commerce. What then, is outside the jurisdiction of Islam? The longest verse in the Qur'an is about transactions, loan and mortgage. If Islam is really the religion introduced in the Qur'an, who can say that Islam has nothing to do with the social life of people?

If issues pertaining to marriage and divorce are not a part of religion, issues related to trade, mortgage, selling, and usury are not related to religion, and the issue on wilayah and obedience to the one vested with authority [uli'l-amr] is not part of religion, what then is a part of religion, and which religion will we be talking about? As far as the Qur'an is concerned, it has repeatedly talked about these issues.

Some say, "We do not accept the religion which embraces sociopolitical issues!" Well and

good! After all, those who did accept Islam were not few. Now, there are still those who do not accept Islam, and we have no hostility with them. If they want, they can come and talk with us so that we can show them this universal Islam, and if they do not want, they are welcome to choose whatever they want:

(وَقُلِ الْحَقُّ مِن رَّبِّكُمْ فَمَن شَاء فَلْيُؤْمِن وَمَن شَاء فَلْيَكْفُرْ)

And say, '[This is] the truth from your Lord: let anyone who wishes believe it, and let"
(anyone who wishes disbelieve it'."(١)

Those who say that they accept Islam, and not regard it as encompassing all these issues, yet express concern about each of its social laws are totally lost. Is that which is in the Qur'an and Sunnah not Islam? They neither accept its prayer and other forms of worship, nor its laws; neither its sociopolitical laws, nor its marriage and divorce laws. What remains of Islam, and which Islam are they talking about? Their words can .do no more than deceive a number of ignorant individuals

:Religion means divine baptism in the life of man

(صِبْغَةَ اللّهِ وَمَنْ أَحْسَنُ مِنَ اللّهِ صِبْغَةً)

(The baptism of Allah [sibghat Allah], and who baptizes better than Allah?"(٢"

The life of man can have either a divine or a satanic hue. If this life has a divine color, it epitomizes Islam. If we want to discuss the origin and source of divine baptism, we need to know the religious references, and apart from the Qur'an, the

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.Surah al-Kahf ۱۸:۲۹ -۱
.Surah al-Baqarah ۲:۱۳۸ -۲

Sunnah and rational proofs, we do not know of any other Islamic source. Based on these sources, Islam encompasses all devotional and political, social and individual domains, and a cursory and casual glance at the Qur'an is enough to clearly prove that it is impossible for the religion referred to in the Qur'an to set aside sociopolitical .matters

A set of laws and values which do not deal with social and political issues, has nothing to do with Islam, because Islam, which has been explained in the Qur'an and which we are defending, includes the totality of political, social and devotional matters. Politics is considered as one of its essential elements and main domains. We have

nothing to do with "Islam" which is presented according to the writings and statements of European and American writers. We regard them as alien to the spirit .and substance of pristine Islam

(Session ۳: Station of Politics in Religion (Part ۱

Definition of politics and the three powers in Islam

In order to make clear whether or not the Qur'an talks about politics, we present an unequivocal definition of politics. Politics means the method of administering or organizing the society in such a manner that its interests and desires are realized. In simpler terms, politics means the rule of statecraft. What we mean by politics is not 'real politic', the concept with negative connotations, which is linked with chicanery, .trickery, scam, and deception

In the sphere of politics and statecraft, since the time of Montesquieu(۱) the administrative body has been seen to be composed of three powers, viz. the legislative, executive and

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۱- Charles Louis de Secondat Baron de la Brede et de Montesquieu (۱۶۸۹-۱۷۵۵): French writer and jurist, who explored in depth in his The Spirit of the Laws (۱۷۴۸; trans. ۱۷۵۰) the modern idea of the separation of powers as well as the checks and balances to guarantee individual rights and freedoms. Albeit not using the term "separation", Montesquieu outlined a three-way division of powers in England among the Parliament, the king, and the courts, though such a division did not in fact exist at the time. [Trans.]

judicial. The function of the legislative body is the enactment of laws and decrees for the administration of society and formulation of rules of behavior for the people under different circumstances, in such a manner that justice is implemented, order prevails in society, and the rights of individual is not trampled upon. In general, society moves toward reform. The function of the executive body, the cabinet, is the implementation

of laws and regulations enacted by the legislative body. The function of the judicial body is to adapt general laws and cases to particular and special cases and adjudicate .and pass judgment on the disputes and differences among people

Considering the above classification and functions mentioned for each of the powers, the opinion of Islam and the Qur'an about the station and legitimacy of the three powers must be examined. Do the Qur'an and Islam have specific orders and laws in these domains? It must, however, be noted that by "laws" we mean social laws and .decrees, (not personal laws) whose existence in religion no one doubts

The social laws include civil, penal, commercial, political and international laws. Once we take a glance at the Qur'an, we discover that all kinds of laws in the world for the administration of society, and the management of international relations can be found therein. Apart from the fact that civil laws; decrees on marriage and divorce; laws on trade, transactions, mortgage, loan and the like can be found in the Qur'an (which proves that issues

on statecraft, like enactment and presentation of laws for the administration of society are taken into account in Islam), a special right for the Prophet (s) has been stipulated in the Qur'an to enact laws and decrees on particular cases based on circumstances of time and space, and the faithful are duty-bound to act upon the laws :(issued by the Messenger of Allah (s

(وَمَا كَانَ لِمُؤْمِنٍ وَلاَ مُؤْمِنَةٍ إِذَا قَضَى اللَّهُ وَرَسُولُهُ أَمْرًا أَن يَكُونَ لَهُمُ الْخِيَرَةُ مِنْ أَمْرِهِمْ)

A faithful man or woman may not, when Allah and His Apostle have decided on a" (matter, have any option in their matter."(۱

In this noble verse, the faithful have been deprived of the option to violate the .(decision of God and His Prophet (s

Thus, apart from the orders of God and fixed divine laws, laws enacted by the Prophet (s) are also binding on all those living within the jurisdiction of the Islamic government.

No one has the right to question these laws because whoever opposes them does not regard the Prophet as an emissary of God. We have no business with such a person. He who believes in the Prophet's (s) right of legislation being delegated to him by God, .but disputes about a truth, we will argue with him according to verses of the Qur'an

Therefore, the Qur'an does not say, "An unbelieving man or woman may not..." but rather "A faithful man or woman may not..."As such, just as every 'faithful' living under the Islamic government acknowledges the apostleship

p: ۴۴

.Surah al-Ahzab ۳۳:۳۶ -۱

of the Prophet (s) and regards the laws of God as necessary to follow, he should equally regard the orders of the Prophet (s) as necessary to follow. The necessity to :follow God and His wilayah over all the faithful is established by such noble verses as

(النَّبِيُّ أَوْلَى بِالْمُؤْمِنِينَ مِنْ أَنفُسِهِمْ...)

(The Prophet is closer to the faithful than their own souls..."(۱)"

According to the Qur'an, therefore, both the highest level of implementation of law and the right of legislation have been delegated to the Messenger of Allah (s). Whether or not such a right and station is also established for anyone other than the Messenger of Allah must be dealt with elsewhere. Presently, our concern is whether .Islam has an opinion about politics or not

Judicial laws in the Qur'an

Meanwhile, concerning the issue of judging after adapting general divine laws to :cases where there is a dispute and discord among people, God says

(فَلَا وَرَبِّکَ لاَ يُؤْمِنُونَ حَتَّىَ يُحَکِّمُوکَ فِيمَا شَجَرَ بَيْنَهُمْ ثُمَّ لاَ يَجِدُواْ فِي أَنفُسِهِمْ حَرَجًا مِّمَّا قَضَيْتَ وَيُسَلِّمُواْ تَسْلِيمًا)

But no, by your Lord! They will not believe until they make you a judge in their" disputes, then do not find within their hearts any dissent to your verdict and submit in

(full submission."(٢)

In the above verse, not only is the right of adjudication confirmed for the Messenger of Allah (s), but the acceptance of and acting upon his adjudication and verdict has been regarded as a requisite of faith. This point is accompanied by a very emphatic oath—"In their disputes the people

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۱- Surah al-Ahzab ۳۳:۶.

۲- Surah an-Nisa' ۴:۶۵.

must definitely make you the judge and arbiter, and after you pass a judgment they should not nurse any dissent and dissatisfaction in their hearts but should accept the judgment with full submission and obedience. Otherwise, they will not be truly faithful.

The true faithful is one who, if the Islamic court issues a decree against him, accepts it with open arms, realizing the possibility that his right is violated because the judge passes the verdict on the basis of external means of rendering justice, which the Messenger of Allah (s) explained thus: "Verily, I judge among you on the basis of proof and testimony."(۱) The testimony of a witness who is outwardly just is accepted although he might have lied in his testimony or committed an error therein. If everyone does not act upon the verdict of the judge, no progress can be made and the system will collapse.

What can be deduced from the Qur'an on penal matters, such as blood-money [diyah], qisas,(۲) ta'zirat,(۳) and the like, testify that Islam is highly involved in politics, administrative affairs and society. Islam has gone to the extent of taking into account hudud(۴) for criminals and corruptors in certain cases and of authorizing the judge to implement them even if there is no specific complainant. In such cases divine limits and rights have been violated and sometimes punishments are difficult to endure and accept. For example, the Qur'an says that in an Islamic society if an illegitimate relationship between a man and a

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.Wasa'il ash-Shi'ah, vol. ۲۷, p. ۲۳۲ -۱

Qisas (literally means retribution or retaliation) in the Islamic jurisprudence is to be -۲ executed against a criminal who committed such crime as murder, amputation of a body limb, or laceration and beating according to legal decree when the victim or his [.guardians seek retribution in lieu of receiving a fine or blood money. [Trans

In Islamic jurisprudence ta'zirat applies to punishments the limit of which is entirely -۳ [.up to the judge and competent jurist. [Trans

Hudud (literally means boundaries or limits) in the Islamic law is generally applied to -۴ penal law for punishments prescribed for particular crimes whose extent is [.determined by law. [Trans

woman is proved before the judge through the statements of four witnesses, both of them must receive a hundred lashes, and the Qur'an particularly admonishes the :judge not to be influenced by emotion and have pity on them

(الزَّانِيَةُ وَالزَّانِى فَاجْلِدُوا كُلَّ وَاحِدٍ مِنْهُمَا مِئَةَ جَلْدَةٍ وَلاَ تَأْخُذْكُم بِهِمَا رَأْفَةٌ فِى دِينِ اللَّهِ...)

As for the fornicatress and the fornicator, strike each of them a hundred lashes, and" (let not pity for them overcome you in Allah's law..."(۱

Undoubtedly, by implementing such a punishment the person will be disgraced, but :society will acquire immunity. Regarding theft the Qur'an says

(وَالسَّارِقُ وَالسَّارِقَهُ فَاقْطَعُواْ أَيْدِيَهُمَا جَزَاءً بِمَا كَسَبَا نَكَالاً مِنَ اللّهِ وَاللّهُ عَزِيزٌ حَكِيمٌ)

As for the thief, man and woman, cut off their hands as a requital for what they have" earned. [That is] an exemplary punishment from Allah and Allah is All-mighty, All- (wise."(۲

We conclude that the Noble Qur'an mentions adjudication, enactment of rules and regulations to preserve social order and secure the interests of society, and implement the hudud and ta'zirat(۳) rights of the Messenger of Allah (s). For a fair-

minded person there will remain no doubt about Islam's involvement in sociopolitical issues if he refers to the Qur'an as well as the authentic traditions of the Prophet (s) and the infallible Imams ('a). Those who stubbornly deny these truths have chosen to do so no matter what the proof.

Universality of Islam and station of Islamic ruler

Apart from clearly explaining major political issues, the rule of statecraft, enactment of laws, their adaptation to particular cases, and their implementation, the Qur'an also clearly

p: ۴۷

۱- Surah an-Nur ۲۴:۲.

۲- Surah al-Ma'idah ۵:۳۸.

۳- In Islamic jurisprudence ta'zirat applies to punishments for crimes not specified by the sacred law the limit of which is entirely up to the judge and competent jurist. [Trans.]

explains secondary and minor issues such as mentioning the months of the year, for example:

(إِنَّ عِدَّةَ الشُّهُورِ عِندَ اللّهِ اثْنَا عَشَرَ شَهْرًا فِی كِتَابِ اللّهِ یَوْمَ خَلَقَ السَّمَاوَات وَالأَرْضَ مِنْهَا أَرْبَعَةٌ حُرُمٌ ذَلِکَ الدِّینُ الْقَیِّمُ...)

"Indeed the number of the months with Allah is twelve months in Allah's Book, the day when He created the heavens and the earth. Of these, four are sacred. That is the upright religion..."(۱)

In the above verse, the division of the year into twelve months has been mentioned as an intrinsic and fixed affair in harmony with the system of creation. Mentioning such affairs in religion has been regarded as a symbol of its firmness, correctness and reliability. Regarding the sighting of the crescent moon, the Qur'an also says:

(یَسْأَلُونَکَ عَنِ الأَهِلَّهِ قُلْ هِیَ مَوَاقِیتُ لِلنَّاسِ وَالْحَجِّ...)

They question you concerning the new moons. Say, 'They are timekeeping signs for"
(the people and [for the sake of] Hajj'..."(٢)

Social and devotional laws are in harmony with the system of creation. In addition, many legal laws have connected the beginning of the lunar month of Ramadhan, commencement of the Hajj season and other devotional laws with the sighting of the new moon. These are because the Qur'an basically presents religion as concordant :with the nature [fitrah] and system of creation

(فَأَقِمْ وَجْهَکَ لِلدِّينِ حَنِيفًا فِطْرَةَ اللَّهِ الَّتِی فَطَرَ النَّاسَ عَلَيْهَا لاَ تَبْدِيلَ لِخَلْقِ اللَّهِ...)

So set your heart on the religion as a people of pure faith, the origination of Allah"
according to which He originated mankind. There is no altering Allah's

p: ۴۸

١- Surah at-Tawbah (or, Bara'ah) ٩:٣۶.

٢- Surah al-Baqarah ٢:١٨٩.

(creation..."(١)

Once the divine and religious laws are divinely codified, they are unchangeable. There are also changeable laws that depend on particular circumstances of time and space. To identify and deal with these laws has been delegated to the duly competent jurist who has acquired his legitimacy and authority from God. In the Qur'an this privilege .(and designation has been considered for the Messenger of Allah (s

According to the Shi'ah creed, the pure Imams ('a) who have also been indicated in the Qur'an, have the same designation, which has been passed on to the wali al-faqih, which issue will be tackled at its appropriate time. Of course, a religion may exist in the world which is concordant with the above notion and outlook, but it is not within the scope of our discussion. We are talking about a religion which is even expected to state and determine the months of the year. In the area of transactions and financial relations among people, it clearly states that if a person gives a loan to another, he

.must ask for a receipt from him and give the loan in the presence of two witnesses

If it is not possible to get a receipt and find witnesses, he has to take a retained pledge or mortgage a valuable thing in lieu of the loan.(۲) We believe that such a religion has a program concerning politics and statecraft besides meeting the .material and spiritual needs of people

During the previous session, while rejecting that

۱- ۳۰:۳۰ Surah ar-Rum.

۲- Trans] ۲:۲۸۲-۲۸۳. See Surah al-Baqarah.]

religion is only concerned with organizing the relationship between man and God, we said that religion, in its true sense, means the divine manifestation of human life. Such religion encompasses not only a portion of human life and behavior such as worship and the performance of devotional rites, but it embraces the totality of human life and .the entire aspect of his existence

He is created to organize his life in such a way that he attains eternal felicity by conforming all aspects of his life to the Divine will and commands. Thus, direct worship of God and conventional devotion are only a part of our religious duties. Our other mental and behavioral aspects of life must be in line with the will of God and they must somehow assume a form of worship ['ibadah] so that the sublime and lofty goal of :human creation can be realized

(وَمَا خَلَقْتُ الْجِنَّ وَالْإِنسَ إِلَّا لِيَعْبُدُونِ)

"I did not create the jinn and humans except that they may worship Me."(۱)

The purport of the verse is that the perfection of man is only possible under the aegis of worship and devotion to God. Therefore, all his movements and pauses must be within this framework. Even his breathing must be according to this program. If the life of a person acquires this divine baptism and color, and is attuned with this

program, it means that he is truly religious. On the contrary, if he totally refuses to worship God, he is certainly irreligious and

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۱- Surah adh-Dhariyat ۵۱:۵۶.

an infidel. Between these two frontiers, viz. the frontier of true religiosity and the frontier of infidelity, there are those, a portion of whose lives is not in conformity with the will of God and are, therefore, not truly worshipping God.

The religion of this group is surely defective. In view of the variety of religious deficiencies, it must be acknowledged that those who are truly religious and observe the divine laws in all facets of their lives, and those who observe only a portion of the laws are not on equal footing. Also, religiosity and faith has basically different levels and can grow and be perfect. As the Qur'an says:

(وَالَّذِينَ اهْتَدَوْا زَادَهُمْ هُدىً وَآتَاهُمْ تَقْواهُمْ)

"As for those who are [rightly] guided, He enhances their guidance, and invests them with their God-wariness."(۱)

Elsewhere, it says:

(إِنَّما الْمُؤْمِنُونَ الَّذِينَ إِذَا ذُكِرَ اللّٰهُ وَجِلَتْ قُلُوبُهُمْ وَ إِذَا تُلِيَتْ عَلَيْهِمْ آيَاتُهُ زَادَتْهُمْ إِيمَانًا)

"The faithful are only those whose hearts tremble [with awe] when Allah is mentioned, and when His signs are recited to them, they (Allah's signs) increase their faith."(۲)

Yes, there are those, whose faith is constantly moving toward perfection and they reach the highest level of faith and come closer to the station of the awliya' [saints] of Allah, and even be included among the awliya' of Allah. On the contrary, there are those who are moving backward from the station of religiosity. By listening and paying attention to the doubts spread by the foreigners and their admirers in the cultural domain

.Surah Muhammad ۴۷:۱۷ -۱
.Surah al-Anfal ۸:۲ -۲

of society, many abandon the religion they learned from their father, mother and teacher. This is because paying attention to the doubts will lead willy-nilly to misguidance of those who do not possess the ability to assess and study matters. In :this regard, the Qur'an says

(وَقَدْ نَزَّلَ عَلَيْكُمْ فِی الكِتَابِ إِذَا سَمِعْتُمْ آيَاتِ اللّهِ يُكْفَرُ بِهَا وَيُسْتَهْزَأُ بِهَا فَلاَ تَقْعُدُوا مَعَهُمْ حَتَّى يَخُوضُواْ فِی حَدِيثٍ غَيْرِهِ إِنَّكُمْ إِذاً مِثْلُهُمْ)

Certainly He has sent down to you in the Book that when you hear Allah's signs being" disbelieved and derided, do not sit with them until they engage in some other (discourse, or else you [too] will be like them."(۱

Man has to first increase his learning as well as intellectual and rational foundation and empower himself with experience, analysis and response. He may then listen to doubt and skepticism. But the person who does not have the power to deal with the doubts should not place himself in the danger of misguidance by listening to doubts. Islam does not say that you should not enter the arena of wrestling. It says that you should wrestle with an opponent of equal weight and if you want to wrestle with a heavyweight opponent, you should first increase your weight and extend your .training. Islam does not say that you should not listen to others' words and misgivings

It rather says that the attention paid to them should commensurate with the extent of your experience, analysis and discernment. First of all, one has to acquire

.Surah an-Nisa' ۴:۱۴۰ -۱

divine gnosis [ma'rifah] and learn the art of responding to doubts. Thereafter, one should discuss religion with others and listen to their statements so that they do not

.disarm you and impose their opinion on you

(Session ۴: Station of Politics in Religion (Part ۲

Separation of religion and politics an extra-religious outlook

In propounding the separation of religion and politics, they say that they have consulted the Qur'an and are examining it through extra-religious lens. Before examining the sources of Islam and considering what the Qur'an says about politics, they pose this question: In essence, what is man's need for religion? In what issues does he need religion to guide him? Regarding this matter, they have considered two hypotheses. The first hypothesis is that in everything and in all aspects of life man is in need of religion. Things such as the way of preparing and consuming food, the way of acquiring and building a house, the way of contracting marriage, and forming a .society and government are all the same

They ask: Should religion solve all these problems and man no longer engage in scientific research? Should we have maximum expectation from religion and consult it for all information? Whenever we want to buy clothes, we need to see what Islam says about it. Whenever we want to eat food, we have to check which food Islam suggests. Whenever we want to consult a doctor, we need to know what Islam advises. Also, we have to find out what religion says about forming a government. Their other hypothesis is that religion has limited jurisdiction

and we should have minimum expectation from it. Obviously, religion has an opinion in all matters needed by man, but no religion ever claims that it provides for all the .needs of man

After finding out that religion does not teach us the methods of cooking, curing diseases, engineering, and building airplanes and ships, the distinction between the issues dealt by and not dealt by religion must be examined, and in which areas and spheres religion has been involved. They arrive at the conclusion that religion is concerned only with affairs related to the hereafter and has nothing to do with

worldly affairs, and that we should have the least expectation from religion. From religion we should only search for the path of eternal salvation and the means and ways that will make us enter paradise and save us from hell. We should learn from religion how to pray, how to fast, how to perform the Hajj pilgrimage, and other .matters related to the hereafter

They assume that they have solved the issue concerning the relationship between religion and politics by demarcating them and separating the jurisdiction of religion from that of politics. It has been stated that politics belongs to mundane affairs while religion is only related to the hereafter. Neither should religion interfere in the domain of politics nor should politics interfere in the domain of religion. Only knowledge and human accomplishments should interfere in politics which deals with the jurisdiction of this world and science. Fields such as

physics, chemistry, biology, medicine, psychology, and sociology belong to the domain of science. Religion has nothing to do with them. Religion is only involved in matters .pertaining to the hereafter

The origin of this issue can be traced back to many centuries in the West. When there was conflict and dispute between the ecclesiastical authorities and the men of science and politics it led to wars and clashes between them, and finally to an unwritten peace. They agreed amongst themselves that religion should deal solely with otherworldly affairs and the relationship between man and God; the sole jurisdiction of mundane affairs i.e. political, social and academic, should be left to statesmen and .scientists

This happened in the West. Those who are impressed with the West suggest that such a division of labor also be done in our Islamic country. Religion should only be in the hands of religious scholars and interfere in otherworldly affairs only. Religion and the religious scholars should not meddle in worldly affairs. Politics should, therefore, be entrusted to the political scientists and statesmen, and not to the fuqaha and ‘ulama’. In this regard, many speeches are being delivered and lots of articles being

written. In proving their theory, they leave no stone unturned in inculcating this notion .in the minds of our youth, that the religion and politics are apart

Unfortunately, some of those who are engaged in cultural affairs are unconsciously influenced by this notion and other cultural waves of the West. It is gradually being

accepted that religion is the opposite of politics. Religion solves a part of human problems but worldly problems have nothing to do with religion. Erroneous and deviant ideas of our writers, orators and cultural figures pose serious threats to our .religious culture

Close-knit connection between this world and the hereafter

The fact of the matter is that our life is divided into this world and the hereafter. That is, we have a period of life which commences at our birth and ends at our death. Then, the second part of our life begins on entering purgatory ['alam al-barzakh] and facing resurrection.(۱) This division of life does not necessarily mean that our actions and behavior in this world shall be divided into two and viewed from two perspectives. At any rate, we are in the world of action. Religion is revealed to guide our actions in the .world, through a series of commandments and ordinances

Thus, the religious commandments are not only for after death. It is not correct to say that a portion of our fifty or sixty year-long lives is related to the hereafter while another portion is related to this world. Rather, we have nothing in this world which is not related to the hereafter. All our actions in this world automatically assume an otherworldly form. That is, our actions here may be beneficial or harmful for us in the hereafter. Since our actions affect our otherworldly lives, the religious and Islamic :view is that life in the hereafter is settled in this very world

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Of course, another part of life prior to the life in this world can also be considered -۱ .and that is the life in the womb

أَلْيَوْمَ عَمَلٌ وَ لاَ حِسَابَ وَ غداً حِسَابٌ وَ لاَ عَمَلَ.

“Today is the time for action and not for reckoning while tomorrow is the time for reckoning and not for action,”(1)

And

أَلدُّنْيا مَزْرَعَةُ الْأٰخِرَه.

“This world is the sowing ground for the hereafter.”(2)

So, we will reap in the hereafter the fruit and product of whatever we sow in this world. It is not correct to say that our worldly life is alien to our otherworldly life; that a part of our actions are related to the life in this world while another part is related to the hereafter; and that we have two distinct spheres of life for this world and the hereafter. Instead, all our actions in this world such as breathing, blinking, walking, sitting, rising, looking, social intercourse, speaking, listening, eating, marital relationship, and government-people relationship can be such that ensure our felicity in the hereafter, or bring harm to us. It is true that the style of cooking and consumption of food are related to this world but the same act of eating can send us to paradise, or throw us into hellfire:

(إِنَّ الَّذِينَ يَأْكُلُونَ أَمْوَالَ الْيَتَامَى ظُلْمًا إِنَّمَا يَأْكُلُونَ فِى بُطُونِهِمْ نَارًا وَسَيَصْلَوْنَ سَعِيرًا)

“Indeed those who consume the property of orphans wrongfully only ingest fire into their bellies, and soon they will enter the Blaze.”(3)

Anyone who fills his stomach with the property of orphans eats food and enjoys doing so, but the food he eats will become chastisement of the hell for him. Similarly, if

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1- Bihar al-Anwar, vol. ۳۲, p. ۳۵۴.

2- Bihar al-Anwar, vol. ۷۰, p. ۲۲۵.

3- Surah an-Nisa’ ۴:۱۰.

a person eats food for the sake of worshipping God, the same act of eating will have a spiritual reward. The same word that a person utters for the sake of pleasing God will be a tree growing in paradise for him. The Holy Prophet (s) said to his companions: “For anyone who recites tasbihat al-arba‘ah(۱) God gives him a tree that grows in paradise.” Some said: “So, we shall have many trees in paradise because we recite this dhikr [remembrance of God] frequently.” He said, “Yes, provided that you do not ”.kindle fire to consume them

Thus, once our actions are done for the sake of pleasing God, they will bring about eternal felicity and rewards, and if they are done against the order of God, they will be the cause of perdition and chastisement in hell. It is not correct to say that our lives have two distinct divisions; one of which is related to the hereafter and is spent in the mosque, church, synagogue, and temple, while another part is related to this world .and to ourselves and has nothing to do with the hereafter

As we have said, this erroneous thinking was prevalent for the past centuries in the West among the followers of certain religions and occupied the minds of many in spite of the fact that neither Islam nor any other revealed religion ever endorsed such a notion. The contention of true religion is that man is created in order to secure his own felicity

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Tasbihat al-arba‘ah: literally, the four tasbihs; it refers to the recital of “Subhan - ۱ Allahi wa’l-hamdulillahi wa la ilaha illallahu Allahu akbar” [Glory be to Allah; praise be [.to Allah; there is no god but Allah; Allah is greater]. [Trans

or perdition, and that his eternal felicity or perdition, as the case may be, lies in his behavior in this world. If his behavior is consistent with the command of God, he will .attain eternal bliss, and, if otherwise, he will incur everlasting damnation

The “minimalist” view on the question of expectation from religion is the result of a fallacy they committed. They imagined that expecting the maximum from religion

meant they would have to seek all the information about everything from religion, including the style of cooking food and building a house, which information religion could not provide, so they said that they should not expect the maximum from religion. This is fallacious because the above issue does not have only two options. It has a third option which is the correct one, and that is, we do not expect that religion to say something about everything, including the manner of eating food, wearing clothes and building a house. No one has such a claim. However, since religion has left many issues to the realm of non-religious sciences, the same issues actually belong to the jurisdiction of religion. In this way, they acquire ideological value.

Ideological baptism of actions in this world

Once we consider the life in this world as linked to the life in the hereafter and believe that the totality of man's actions and behavior plays a role in his perfection or downfall, it will acquire ideological value and we will give religion the right to judge each action. In simpler terms,

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religion informs us about the lawfulness or unlawfulness of our actions and not the manner of performing them.

Religion says that eating certain foods is unlawful [haram] and sinful. For example, eating pork and drinking wine are haram, but to say something about the manner of making wine and breeding pig is none of the business of religion. The reason behind religious permissions and prohibitions is their positive or negative effects in the otherworldly life of man, and it states the moral value of every action.

In other words, the path of man toward perfection begins from a point toward infinity. That which is useful for our perfection and provides the ground for the spiritual advancement of man is proportionate to the degree of wajib, mustahabb [recommended] or at least mubah [permissible] acts performed. The performance of haram and, to a lower degree, makruh [abominable] acts will keep him away from his true perfection and God. So, religion does not say what food to eat or how to cook it

.and how to build a house

However, it says that you should not build a house on usurped land or you should not build a house in such a way that it overlooks the house of another and invades his privacy. It also says that you should build your house with halal income and not out of money earned through usury [riba’]. In reality, religion mentions the ideological manner of building a house. It also invites us to consume foods

that are effective in our human and spiritual growth and avoid unlawful foods, :alcoholic beverages, and narcotic drugs, which are unhealthy for us

(يَا أَيُّهَا الَّذِينَ آمَنُواْ إِنَّمَا الْخَمْرُ وَالْمَيْسِرُ وَالأَنصَابُ وَالأَزْلاَمُ رِجْسٌ مِنْ عَمَلِ الشَّيْطَانِ فَاجْتَنِبُوهُ لَعَلَّكُمْ تُفْلِحُونَ إِنَّمَا يُرِيدُ الشَّيْطَانُ أَن يُوقِعَ بَيْنَكُمُ الْعَدَاوَةَ وَالْبَغْضَاء فِى الْخَمْرِ وَالْمَيْسِرِ وَيَصُدَّكُمْ عَن ذِكْرِ اللّهِ...)

O you who have faith! Indeed wine, gambling, idols and the divining arrows are“ abominations of Satan’s doing, so avoid them, so that you may be felicitous. Indeed Satan seeks to cast enmity and hatred among you through wine and gambling, and to (hinder you from the remembrance of Allah.”(۱

Hence, the permission and prohibition of religion is meant to expound the ideological value of all actions. To sum up apart from the worldly outcome of actions, religion also speaks about every action’s contribution to the doer’s admission to paradise or .entrance to hell

Radiant capability of intellect in discerning value of actions

The ideological value of action from the perspective of permissibility or prohibition is sometimes so clear and unambiguous that the human intellect can discern it well and there is no longer need for religion to state its ruling about it. In fact, the intellect alone can identify the decree of God. As such, concerning “rational independence” [mustaqillat al-‘aqliyyah], the fuqaha have said that in some cases the intellect can independently give a judgment and know the goodness [husn] or badness [qubh] of actions. Through the use of the intellect, we discern that the will of God is in the

performance or abandonment of an

.Surah al-Ma'idah ۵:۹۰-۹۱ -۱

.act; we discern that God is pleased or displeased with a certain act

Our intellect understands that taking out a slice of bread from the mouth of an orphan is an abhorrent act. In this regard, there is no need to state the religious ruling of law, though sometimes, in addition to the discernment of the intellect, the Qur'an and ahadith have also mentioned the religious rulings which actually confirm the judgment of the intellect. In most cases, nonetheless, the intellect does not possess the capability to understand that a certain action (depending on its being positive or negative, and how valuable) is obligatory [wajib], prohibited [haram], recommended [mustahabb], abominable [makruh], or permissible [mubah]. It is at this point that religion has to state the type and degree of impact of a certain act on our ultimate .perfection

Jurisdiction of Religion

Once we observe the commandments of religion, we will realize that the jurisdiction of religion is not restricted to personal matters. It rather deals with social issues such as those related to family, marriage, divorce, and commerce, and states the scope of halal and haram and their ideological values. By stating the ideological value of those things, religion actually explains their orientation—which form will lead toward God and which will incline toward Satan. This is something which science is incapable of .dealing with

Science mentions the amount and kind of elements needed to form different things and enumerates the physical and chemical properties, but it does not state how to use things in

order to secure the real success of man. In this case, religion has to judge. Therefore, just as our personal action affects our felicity or wretchedness, our action in .sociopolitical affairs has greater effect

Meanwhile, in connection with the main axis of our discussion, which is social administration, can it be said that the mode of managing society has no relation with the ultimate success or failure of man and that the people in society are free to choose whatever form and method of administering their society, and religion has nothing to do with it? Who does not know that observance of justice in society gives ?success to man and that justice has a very strong positive value

In this context, even if there is no pertinent Qur'anic verse or hadith, our intellect will discern that the observance of justice contributes toward the perfection, advancement and exaltation of man. When people do not regard their intellect as sufficient to discern ideological issues in these contexts, they have to resort to the Qur'an and the Sunnah. Of course, we believe that the intellect can understand many of the ideological issues in sociopolitical affairs. This does not mean, however, that .whatever the intellect understands is outside the realm of religion

We have mentioned earlier the "discoverer" of the will of God, which expresses the divine will and wisdom and conveys to us what is pleasing to God. It makes no difference how we discover this thing. What matters is that we discovered the divine

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.legislative will

Sometimes, this discovery is through the agency of the Qur'an and the Sunnah while, at other times, through the intellect, for these three are the proofs and discoverers of divine decrees and religious laws. As such, the intellect ['aql] is considered as a source of divine law. The fuqaha regard the intellect as among the proofs in proving religious .decrees and settling religious issues

So, there is no demarcation between the intellect and religious law [shar']—some

matters belong to the intellect while some others belong to religious law. Rather, the intellect is a light which, owing to its luminosity, can also discover the will and pleasure of God, and whatever can be discovered by the intellect in this regard is a religious .matter

Relationship between Religion and Government

In view of the different forms of government existing in the world, especially the so-called Islamic governments formed during the Islamic period, it cannot be said that Islam has neither a positive nor negative view on the forms of government. If we try to compare the corrupt and oppressive government of Mu'awiyah(۱) and Yazid(۲) with the just government of the Commander of the Faithful ('a), can we claim that the religion of Islam treats the two equally and does not make any distinction between !?the government of 'Ali ('a) and that of Mu'awiyah

Can it be said that everybody is free to choose any form and system of government he likes, and religion cannot interfere; that the performance of neither the government of 'Ali ('a) nor

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Mu'awiyah ibn Abi Sufyan was the first caliph of the Umayyad dynasty (۴۰ AH/۶۶۲ -۱ CE), which ruled the Muslim world after the martyrdom of the Commander of the Faithful, 'Ali ibn Abi Talib and the five-month rule of the second Imam, Hasan ibn 'Ali ('a). As the founder of the Umayyad dynasty, Mu'awiyah revived hereditary monarchy and aristocracy in sharp contrast and opposition to the rudimentary precepts of [.Islam. [Trans

Yazid ibn Mu'awiyah (۲۶-۶۲ AH) succeeded his father to occupy the office of the -۲ caliphate in the year ۶۰ AH. He was a young man devoid of knowledge and virtues and was well known for his debauchery and other vices. Yazid ruled for three and a half years. During his first year he killed Imam al-Husayn ('a) and his votaries at Karbala' and made the latter's surviving kith and kin captives. In his second year as Caliph, he ransacked Medina (the seat of the Prophet's rule and his burial site), and in his third

[.year of rule he invaded Mecca. [Trans

that of Mu'awiyah has any effect on the ultimate fate of man because the form of government is related to politics and this world and has nothing to do with religion?! Could any reasonable person accept such a contention? Can it be said that the two types of government are equal in the sight of religion and that religion neither ?recommends nor discourages any of them

The fact of the matter is that involvement in sociopolitical affairs is among the most evident areas in which religion must get involved. Religion has to explain the appropriate structure of government. Religion has to explain that the ruler has to think about the deprived and the downtrodden as well as about the consolidation of .the pillars of his rule from the very beginning of his assumption of office

Thus, the station of sociopolitical issues in religion, especially in Islam, is clear and eminent. One cannot consider them outside the jurisdiction of religion and believe that they have no effect in the felicity and wretchedness of people. Assuming that the hereafter, the Reckoning, the book of account, reward and punishment really exist, can it be said that the behavior of Mu'awiyah, Yazid and the like has no effect on them?! Of course, even if some of our Sunni brothers have not yet resolved the issue of Mu'awiyah's uprightness, there are many tyrants and oppressors who have .blackened the pages of history

Can it be said that these tyrannical rulers are ideologically on the same footing

as the just rulers? Today, are those who are butchering and bombing innocent women and children equal to those who are totally in the service of the deprived and the oppressed, and will live together in paradise? Which religion or nation supports this view? How then can sociopolitical issues be considered as outside the realm of religion? If religion were supposed to give its opinion about reward and punishment, halal and haram, positive and negative values, then sociopolitical issues are the most .important issues about which religion must give its opinion

Based on what has been stated, the scheme on the basis of which religious issues are separate from that of the world and religious issues are just related to God and the hereafter and are outside the realm of worldly affairs, is totally erroneous and inadmissible, and in no way consistent with Islam. The worldview presented by Islam and the life to which it invites us are repugnant to this way of thinking. This is not to mention the fact that those who are uttering such words essentially believe in neither God nor the Day of Resurrection. They are doing so with the aim of expelling religion .from the scene. But we have nothing to do with their personal conviction

Our only point is that separating mundane affairs and temporal issues from the jurisdiction of religion will lead to the denial of Islam and has no other outcome. As we have said, every action contributes to our felicity or

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wretchedness, as the case may be. So, we have to acknowledge that religion can give its opinion on all matters in our lives and state their ideological value. As the Prophet :(s) said

مَا مِنْ شَیءٍ یقرّبکم إلی الْجَنّه وَ یباعدکم عَنِ النّار إلاّ وَقَدْ أمرتکم به و مَا مِنْ شَیءٍ یقرّبکم مِنَ النّار وَ یباعدکم من الْجَنّه إلاّ وَقَدْ نَهَیْتَکُم عَنْهُ.

There is nothing that would draw you toward paradise and keep you away from hell" except that I commanded you and there is nothing that would draw you toward hell (and keep you away from paradise except that I prohibited you."(۱

In the Islamic perspective, felicity without paradise has no meaning and :wretchedness without being thrown into hellfire simply does not exist

(فَأَمَّا الَّذِینَ شَقُواْ فَفِی النَّارِ... وَأَمَّا الَّذِینَ سُعِدُواْ فَفِی الْجَنَّهِ)

As for the wretched, they shall be in the Fire… And as for the happy, they shall be in" (Paradise."(۲

Universality of Religion

In view of the statement of the Prophet (s), the other assumption is refuted, and to say that it is true that religion can state the value of actions and say what is halal and haram but it was the Prophet (s) himself who stated the values of some actions while some were delegated to the people, i.e., he stated whatever was related to his own time, delegating the rest to the people to identify what is halal and what is haram .according to the circumstances of their time

This statement means that the Prophet (s) did not

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.Bihar al-Anwar, vol. ۷۰, p. ۹۶ -۱
.Surah Hud ۱۱:۱۰۶, ۱۰۸ -۲

state all that would give us felicity. This is what he said: "There is nothing that will ensure your felicity except that I have stated it." Of course, this statement does not mean that he has stated all the minute details. He has rather stated the general rulings, so that, in all times after him, those who have authority can deduce from them specific laws; what is halal and haram according to the evidence, and present them as .primary and secondary rulings or government decrees

Undoubtedly, to identify the specific laws and evidence, which is called religious edict [fatwa'], is in accordance with the general principles mentioned in the Qur'an, the .(Sunnah of the Messenger of Allah (s) and sayings of the infallible Imams ('a

(Session ۵: Freedom in Islam (Part ۱

Private realms of Knowledge and Religion

How and from which materials alcohol is formed and how many types of alcohol we have are scientific questions, and it is beyond the function of religion to address such questions. The function of religion is to state whether alcohol should be consumed or not, and whether the consumption of it is harmful to the soul and spiritual station of man or not. In other words, religion states whether it is halal or haram to consume alcohol. As in other cases, religion issues the ideological decree and value, and not the

scientific data. Religion does not deal with the relation between different aspects of phenomena. Instead, it examines the relationship of phenomena with the soul of man .and human interests

In connection with

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the management of factory and business enterprises, expounding the correct method of management, presenting the design, program, schedule and control, and examining its outcome and pitfalls are concerns of the management which is the rightful scientific authority to address them. As to what products are produced in the factory according to the principle of halal and haram is linked to the soul of man and .thus related to religion

Skepticism on alleged contradiction between religious rule and freedom

The other fallacious misgiving that has been raised in different forms to deceive people is that if religion wants to interfere in sociopolitical affairs and compel people to observe a certain pattern of behavior and obey a certain person, it is repugnant to freedom; man is a creature possessing freedom and autonomy to do whatever he wants to do and no one should compel him to do a certain thing. For religion to determine his duty and ask him to obey, nay unconditionally obey, is inconsistent with .freedom

Propagating the above skepticism through a religious tune

In order to make this misgiving appealing to religious people, feigning religiosity and presenting oneself as a believer of the Qur'an, makes it appear religiously and Qur'anically based and claims that Islam respects human freedom; the Holy Qur'an negates the ascendancy and domination of others, and even the Messenger of Allah (s) has no dominance over any body and could not compel anyone; thus, by citing verses of the Qur'an, we are made to acknowledge that man is free and is not .supposed to obey anyone

The orientation of these misgivings and fallacies is

to undermine the theory of wilayah al-faqih. The point it is trying to drive at is that obligatory obedience to the wali al-faqih is against human freedom, and this is contrary to the spirit of Islam which regards man as the noblest of creation and the vicegerent of God on earth. Let us quote below some verses cited by those expressing the misgivings:

While addressing the Prophet (s), God says:

(فَذَكِّرْ إِنَّمَا أَنتَ مُذَكِّرٌ لَّسْتَ عَلَيْهِم بِمُصَيْطِرٍ)

"So admonish—for you are only an admonisher, and not a taskmaster over them."(1)

Based on this verse, the Prophet (s) who occupies the highest human station has no dominance over the people; the people are free and not required to obey the Prophet (s) and he has no right at all to express opinion on the lives of people!

(وَمَا جَعَلْنَاكَ عَلَيْهِمْ حَفِيظًا وَمَا أَنتَ عَلَيْهِم بِوَكِيلٍ)

"We have not made you a caretaker for them, nor is it your duty to watch over them."(2)

(مَّا عَلَى الرَّسُولِ إِلاَّ الْبَلاَغُ)

"The Apostle's duty is only to communicate."(3)

(إِنَّا هَدَيْنَاهُ السَّبِيلَ إِمَّا شَاكِرًا وَ إِمَّا كَفُورًا)

"Indeed We have guided him to the way, be he grateful or ungrateful."(4)

(وَقُلِ الْحَقُّ مِن رَّبِّكُمْ فَمَن شَاء فَلْيُؤْمِن و مَن شَاءَ فَلْيَكْفُرْ...)

"And say, '[This is] the truth from your Lord: let anyone who wishes believe it, and let anyone who wishes disbelieve it'..."(5)

Replying to the above skepticism

In contrast to the verses cited by the person expressing misgivings with the aim of negating the authority and supremacy of the Messenger of Allah (s) and the obligatory obedience to him, there

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١- Surah al-Ghashiyah ٨٨:٢١-٢٢.

٢- Surah al-An'am ۶:١٠٧.

٣- Surah al-Ma'idah ۵:٩٩.

۴- Surah al-Insan (or, ad-Dahr) ٧۶:٣.

۵- Surah al-Kahf ١٨:٢٩.

are verses which are contradictory to the above verses, according to the incorrect understanding of the person expressing misgivings. Let us quote below some of these verses:

(وَمَا كَانَ لِمُؤْمِنٍ وَلاَ مُؤْمِنَةٍ إِذَا قَضَى اللَّهُ وَرَسُولُهُ أَمْرًا أَن يَكُونَ لَهُمُ الْخِيَرَةُ مِنْ أَمْرِهِمْ...)

"A faithful man or woman may not, when Allah and His Apostle have decided on a matter, have any option in their matter..."(١)

The above verse has explicitly mentioned the exigency of obeying and submitting to God and His Messenger (s), saying that the faithful have no right to disobey and go against the Messenger of Allah (s).

(إِنَّمَا وَلِيُّكُمُ اللّهُ وَرَسُولُهُ وَالَّذِينَ آمَنُوا الَّذِينَ يُقِيمُونَ الصَّلاَةَ وَيُؤْتُونَ الزَّكَاةَ وَهُمْ رَاكِعُونَ)

"Your guardian is only Allah, His Apostle, and the faithful who maintain the prayer and give the zakat(٢) while bowing down."(٣)

(النَّبِيُّ أَوْلَى بِالْمُؤْمِنِينَ مِنْ أَنفُسِهِمْ...)

"The Prophet is closer to the faithful than their own souls ..."(۴)

Whether we consider the supremacy mentioned in the verse to mean guardianship [wilayah] or more worthy, the verse proves that the right of the Prophet (s) to decide for the people takes precedence over their right to decide for themselves. All the exegetes [mufassirin] point to this, and as such, the people have to accept the decision of the Prophet (s) over their own and have no right to oppose his decision and view. Of course, the verse states only the essence of wilayah of the Messenger of Allah (s) and not the limits of that wilayah—whether the limit of wilayah

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۱- Surah al-Ahzab ۳۳:۳۶.

۲- Zakat: the tax levied on various categories of wealth and spent on the purposes specified in Surah at-Tawbah ۹:۶۰. [Trans.]

۳- Surah al-Ma'idah ۵:۵۵.

۴- Surah al-Ahzab ۳۳:۶.

and preeminence of the Prophet's decision applies only to social affairs or, in addition, also to personal affairs.

Undoubtedly, the skeptics who have resorted to the first group of verses in order to negate the wilayah of the Messenger of Allah and his successors cannot be expected to resolve the outward contradiction of these two groups of verses. Most of them are unaware of the existence of the second group, or do not accept the content of these verses. However, since we deny the existence of contradictions and inconsistencies in the verses, we should strive to resolve the outward contradiction of the verses. For this we need to pay attention to the particular course of both groups of verses by taking into account their contexts as well as the tone of the verses and their addressees in order to understand the real purpose of the verses.

Reason behind the uniqueness of the Qur'anic approach

Once we scrutinize the two groups of verses, we will find that the tone and expression of the verses are different from each other. The first group of verses is in connection with those who had not yet embraced Islam. As such, God enlightens them with the

.truth of Islam and mentions the benefits of obeying Him

Since He knows that the Prophet (s), who is the embodiment of divine mercy and compassion, is worrying about the people who refuse to accept Islam, the path of truth, and obey God, as a result of which they will taste chastisement in hell, God consoles him—Why

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are you endangering your life out of grief and sorrow for the people’s refusal to embrace the faith? We ordained Islam for the people to accept it out of their own :freewill and volition. Had We only wished, We could have guided all the people

(وَلَوْ شَاءَ رَبُّکَ لآمَنَ مَن فِی الأَرْضِ کُلُّهُمْ جَمِیعًا أَفَأَنتَ تُکْرِهُ النَّاسَ حَتَّی یَکُونُوا مُؤْمِنِینَ)

And had your Lord wished, all those who are on earth would have believed. Would“ (you then force people until they become faithful?”(۱

God’s purpose in sending down the apostles (‘a) is to guide the people in recognizing the truth and the path of salvation. They have to accept the religion of truth out of their own freewill, and God does not want to compel and force people to accept the faith. Faith acquired through compulsion is of no value and inconsistent with human guidance, which expects human beings to recognize and accept the truth with :awareness and understanding, and not submit to it out of coercion. As such, God says

(لَعَلَّکَ بَاخِعٌ نَّفْسَکَ أَلَّا یَکُونُوا مُؤْمِنِینَ إِن نَّشَأْ نُنَزِّلْ عَلَیْهِم مِنَ السَّمَاءِ آیَهً فَظَلَّتْ أَعْنَاقُهُمْ لَهَا خَاضِعِینَ)

You might kill yourself [out of distress] that they will not have faith. If We wish We will “ send down to them a sign from the sky before which their heads will remain bowed in (humility.”(۲

So, acceptance of Islam and faith depends on conviction of the heart. Such a conviction is acquired out of cognition and awareness, certain and solid proofs, and one’s freewill. It is

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.Surah Yunus ۱۰:۹۹ -۱
.Surah ash-Shu'ara' ۲۶:۳-۴ -۲

not subject to coercion. As such, God says to His prophet (s), "You did your duty. Your duty was to convey Our message and signs to the people. You are not supposed to worry about the polytheists' refusal to accept the faith and to think that you did not do your duty. It is not part of your mission to let the people become Muslims by compulsion and force, because We did not make you dominant over the polytheists to .make them Muslims by force

In contrast to the first group of verses, the other group of verses addressed to those who embraced Islam out of recognition, awareness and their own freewill, informing them that they have to act upon the commandments of Islam, to obey the Prophet whom they believe to be from God and whose decrees and orders are all from Him, to submit to his decision, and not to have any right and option vis-à-vis his orders. Before embracing the faith, man has the right to choose, but after embracing the faith he has to submit to all the injunctions of the Islamic law [shari'ah]. He who has faith in :only a part of the divine laws has been strongly condemned by God, thus

(إِنَّ الَّذِينَ يَكْفُرُونَ بِاللّهِ وَرُسُلِهِ وَ يُرِيدُونَ أَن يُفَرِّقُوا بَيْنَ اللّهِ وَرُسُلِهِ وَيقُولُونَ نُؤْمِنُ بِبَعْضٍ وَنَكْفُرُ بِبَعْضٍ وَيُرِيدُونَ أَن يَتَّخِذُوا بَيْنَ ذَلِكَ سَبِيلًا أُوْلَئِكَ هُمُ الْكَافِرُونَ حَقًّا...)

Those who disbelieve in Allah and His apostles and seek to separate Allah from His" apostles, and

p: ۷۴

say, 'We believe in some and disbelieve in some' and seek to take a way in between— (it is they who are truly faithless..."(۱

The acceptance of a portion of the decrees and rejection of the rest, the acceptance of a part of the laws and rejection of the rest actually mean the non-acceptance of the essence of religion, because, if the criterion of acceptance of religion is acceptance of the commands of God, one has to act upon the kernel of divine

ordinance, and divine ordinance requires acceptance of all decrees and laws. Even if the criterion of acceptance of religion is the benefit and harm embedded in the commandments of God, undoubtedly God is well aware of it. So, why accept only ?some of the laws

Only he who has faith in God would believe in the Prophet (s), submit to his decision, :decree and order, be pleased with them and not nurse a grudge in his heart

(فَلاَ وَرَبِّکَ لاَ یُؤْمِنُونَ حَتَّیَ یُحَکِّمُوکَ فِیمَا شَجَرَ بَیْنَهُمْ ثُمَّ لاَ یَجِدُواْ فِی أَنفُسِهِمْ حَرَجًا مِّمَّا قَضَیْتَ وَیُسَلِّمُوا تَسْلِیمًا)

But no, by your Lord! They will not believe until they make you a judge in their" disputes, then do not find within their hearts any dissent to your verdict and submit in (full submission."(۲

The truly faithful are sincerely pleased with the order and decision of the Messenger of Allah (s) and do not worry about them because they believe that the Prophet (s) has been appointed by God and his decree is God's

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۱- Surah an-Nisa' ۴:۱۵۰-۱۵۱.

۲- Surah an-Nisa' ۴:۶۵.

:decree for he does not speak without Divine guidance

(إِنَّا أَنزَلْنَا إِلَیْکَ الْکِتَابَ بِالْحَقِّ لِتَحْکُمَ بَیْنَ النَّاسِ بِمَا أَرَاکَ اللّهُ)

Indeed We have sent down to you the Book with the truth, so that you may judge" (between the people by what Allah has shown you." (۱

After embracing Islam and expressing belief in it, the person who says, "I am free in acting upon the laws of Islam; I would do so if I like and I would not do so if I don't," is like saying that in a country where a democratic and liberal system exists, the people voluntarily participate in the referendum, and through a majority vote, choose their government, deputies and concerned authorities of the social system, but once they

!install the legitimate government they shrink from following it

When that government levies taxes from the people, they say, "We will not pay taxes. We were free to elect a government, now, we are equally free to follow its orders, or refuse to discharge our responsibilities." Obviously, no reasonable person will ever .accept such attitude and behavior

Yes, at the beginning no one will be compelled to accept Islam because basic acceptance of it is a matter of faith and conviction of the heart. By force no one will believe in Islam, God and the Resurrection. However, once he accepts Islam and is asked to pray and says that he does not want to pray or once he is asked to pay zakat and refuses to do so, no

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.Surah an-Nisa' ۴:۱۰۵ -۱

reasonable person will believe him (to have really embraced Islam). Is it possible for a ?person to accept a religion but not submit to its laws and act voluntarily upon them

He who accepts Islam should be bound by its laws. Similarly, no government will accept a person who votes for it but in practice refuses to accept its laws and regulations. Commitment to contracts and obligations is the most fundamental principle in social life. If there is no commitment to promise, faithfulness to agreement, pact and treaty, and discharging of duties, social life will never be .possible

Therefore, there is no sense in a person saying that he accepts Islam and believes in the Prophet being sent by God, but neither acts upon his orders nor accepts his authority and guardianship. Undoubtedly, there is a blatant contradiction in the .(acceptance of Islam without following the Messenger of Allah (s

It is clear that if we examine truly the verses of the Qur'an and consider the tone and style of the two groups of cited verses, we will not find any contradiction in the Qur'an

and skepticism on the incompatibility of submission and obedience to others with the principle of human freedom, also endorsed by the Qur'an, will be uprooted. Yet, sick hearts do not look at the Qur'an with sincerity, truthfulness and justice. They refer to the Qur'an for a basis for their deviant opinion, and as such, they tend to be selective without considering the important context of the

verses. According to the Qur'an, the deviators abandon its definitive verses [muhakkamat] and intentionally emphasize its metaphorical verses [mutashabihat]:

(...فَأَمَّا الَّذِينَ فی قُلُوبِهِمْ زَيْغٌ فَيَتَّبِعُونَ مَا تَشَابَهَ مِنْهُ ابْتِغَاء الْفِتْنَهِ وَابْتِغَاء تَأْوِيلِهِ وَمَا يَعْلَمُ تَأْوِيلَهُ إِلاَّ اللّهُ وَالرَّاسِخُونَ فِی الْعِلْمِ...)

"...As for those in whose hearts is deviance, they pursue what is metaphorical in it, courting temptation and courting its interpretation. But no one knows its interpretation expect Allah and those firmly grounded in knowledge..." (۱)

Apart from looking for the mutashabihat, they quote verses out of context and then imagine that verses of the Qur'an are contradictory! We have said that the verses that speak about the lack of dominance of the Prophet (s) over the people are addressed to the unbelievers prior to their acceptance of Islam. The Messenger of Allah (s) could neither invite them to Islam by means of compulsion nor exert authority over them. Actually, according to those verses, the freedom of action and liberty in accepting the divine orders are prior to the acceptance of Islam.

After the acceptance of Islam, every Muslim has to accept the guardianship and authority of the Prophet (s) and Islamic rulers. He is obliged to observe the Islamic values. The Islamic state does not interfere in the personal and private life of individuals as well as in actions done in secrecy, but in relation to the social life and interaction with others, it requires everybody to observe the divine limits. It deals severely with transgression of chastity and divine values, defamation of

.Surah Al 'Imran ۳:۷ -۱

religious sanctities, and spread of perversion and vices. This is actually a manifestation of the Islamic rulers' guardianship over society, urging it to comply with the requirements of faith and Islam—Islam which they have accepted out of their .own freewill

Propagating the skepticism through an extra-religious approach

We have so far replied to the skepticism raised by someone posing to be a religious Muslim who, by citing the Qur'an, concludes that Islam should neither have mandatory orders nor interfere in the lives of people because it is inconsistent with the accepted principle of freedom in Islam. Now, we shall reply to the skepticism in .the meta-religious and extra-religious form and approach

The non-Muslim skeptic tries to show that mandatory religious orders and the call for the people to follow and obey are inconsistent with the essence and fundamental nature of humanity. Of course, this skepticism has been expressed in different forms :and shapes. We shall point out some of them below

In the parlance of logic, freewill constitutes the essence of humanity. Now, if we deprive man of freewill and liberty and compel him, it means depriving him of humanity and likening him to an animal with a bridle on his neck to be pulled here and there. So, to respect man and protect his humanity requires that the right to choose be given to him. As such, religion should not have mandatory decrees that urge him to obey the Prophet, Imams and the successors and deputies of the infallible Imam ('a), for in doing so, he is reduced

.to the level of an animal which is pulled here and there

Hume's skepticism and the first reply to the above skepticism

We shall give two replies to the above skepticism and the first reply is linked with

Hume's(۱) skepticism which is incidentally accepted by skeptics. Hume's skepticism holds that the perceiver of "beings" is the theoretical intellect while the perceiver of "dos and don'ts" is the practical intellect. Since the theoretical intellect is alien and has no relation to the practical intellect, one can not regard the objects perceived by the practical intellect—dos and don'ts—on the basis of the theoretical intellect.

This skepticism of Hume drew the attention of Western philosophers and they made it the foundation and basis of many of their theories and scientific ideas. After the victory of the Islamic Revolution in Iran a number of the so-called intellectuals utilized this skepticism. In their discussions they argued that we can never deduce "beings" from "dos and don'ts". If a person has a distinct character and attribute, we cannot conclude that he should therefore be or not be so-and-so, because the perceiver of the former is the theoretical intellect while that of the latter is the practical intellect and these two are not related to each other.

The same people who accept this skepticism of Hume say that compelling people is inconsistent with their humanity, and religion should not have mandatory orders for people because people are free and autonomous. They say at the outset that man is free, and then conclude that he should be set free

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۱ - David Hume (۱۷۱۱-۱۷۷۶), Scottish historian and philosopher, who influenced the development of skepticism and empiricism, two schools of philosophy, is considered one of the greatest skeptics in the history of philosophy. Hume thought that one can know nothing outside of experience, and experience —based on one's subjective perceptions— never provides true knowledge of reality. Accordingly, even the law of cause and effect was an unjustified belief. [Trans.]

and not forced. Therefore, from the free nature of man which is among the "beings" that are perceived by the theoretical intellect, they draw "dos and don'ts" which are perceived by the practical intellect, and this is in conflict with their own basis. They themselves do not accept that "dos" should be drawn from "beings."

Of course, we believe that in cases where "beings" are the sheer cause of a phenomenon, one can arrive at "dos and don'ts", but such a conclusion cannot be arrived at in our discussion because his freedom is not the sole cause of his being compelled. Rather, freewill paves the ground for duty, and the duty and obligation to do or not to do a certain act is based on the benefit or harm, as the case may be, that actions cause. So, the mandatory order to do a certain act is meant to secure the benefits embedded in it and the reason behind the prohibition of a certain act is the .harms it entails

Second reply—absoluteness and limitlessness of freedom

If we submit to the skepticism—and say that since man is free, a mandatory law should not be imposed on him and no government should have mandatory orders for people; that they should be free to do whatever they like; and that imposition means deprivation of freedom which, in turn, means deprivation of humanity, and thus, no law is credible!! This actually means we accept anarchy and the law of the jungle. Basically, to be mandatory is the eminent feature of

.law

In every system and structure, once a person accepts certain laws and orders, he has to act upon them under all circumstances. It is not possible for a person to accept the law but when he sees that its implementation is detrimental to him, he does not follow it without considering its benefit and harm. In this case, the system will collapse and no progress can be made. So long as a law is regarded as credible and official by the legislative authorities, all need to follow it even if it is found to be defective, it is not their prerogative but the duty of the concerned authorities to address the matter. Under the pretext of the defect in the law, the rest are not supposed to shrink from .following it

Skepticism on alleged contradiction between government authority and man's divine (vicegerency (khilafah

The other skepticism they have expressed is that, as stated in the Qur'an, man is the vicegerent of Allah [khalifat Allah]. It means that he is the viceroy of God on earth and acts like God. Just as God has created the universe, man also has to create phenomena. Just as God administers the world as He wills, man also has to do .whatever he likes on earth

Reply to the above skepticism

The reply to the above skepticism is that the meaning of divine vicegerency [khilafat-e ilahi] should be properly understood and it must be noted that the title "khalifat Allah" mentioned in the Qur'an for Hadrat(١) Adam (Adam) ('a)(٢) is not applied to all the Children of Adam because the Qur'an calls some of

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١- Hadrat: The Arabic word Hadrat is used as a respectful form of address. [Trans.]

٢- In this regard, God says: (وَإِذْ قَالَ رَبُّکَ لِلْمَلاَئِکَهِ إِنِّی جَاعِلٌ فِی الأَرْضِ خَلِیفَهً قَالُوا أَتَجْعَلُ فِیهَا مَن یُفْسِدُ فِیهَا وَ یَسْفِکُ الدِّمَاءَ وَنَحْنُ نُسَبِّحُ بِحَمْدِکَ وَنُقَدِّسُ لَکَ قَالَ إِنِّی أَعْلَمُ مَا لاَ تَعْلَمُونَ) "When your Lord said to the angels, 'Indeed I am going to set a viceroy on the earth,' they said, 'Will you set in it someone who will cause corruption in it, and shed blood, while we celebrate Your praise and proclaim Your sanctity?' He said, 'Indeed I know what you do not know'." (Surah al-Baqarah ٢:٣٠)

:them "devils" when it says

(وَکَذَلِکَ جَعَلْنَا لِکُلِّ نِبِیٍّ عَدُوًّا شَیَاطِینَ الإِنسِ وَالْجِنِّ)

"That is how for every prophet We appointed as enemy the devils from among humans and jinn."(١)

Undoubtedly, the human devil is neither a viceroy of God nor among those before :whom the angels had to prostrate when God said

(وَإِذْ قَالَ رَبُّکَ لِلْمَلاَئِکَهِ إِنِّی خَالِقٌ بَشَرًا مِن صَلْصَالٍ مِن حَمَاءٍ مَسْنُونٍ فَإِذَا سَوَّیْتُهُ وَنَفَخْتُ فِیهِ مِن رُوحِی فَقَعُوا لَهُ سَاجِدِینَ)

When your Lord said to the angels, 'Indeed I am going to create a human out of a dry" clay [drawn] from an aging mud. So when I have proportioned him and breathed into (him of My spirit, then fall down in prostration before him'."(٢)

The vicegerent of Allah possesses great distinction and qualities such as knowledge of the Names—"And He taught Adam the Names, all of them..."(٣) Also, the viceroy of God must be capable of implementing justice on earth. So, the wicked man who sheds blood in the world and does not refrain from committing any crime, or the one who does not possess any sense of justice cannot be the viceroy of God. Is God an ?oppressor that His vicegerent is also an oppressor

The vicegerent of Allah is he who manifests divine qualities in his private and social life, and not just any two-footed being walking on the surface of the earth. Therefore, those who are striving to misguide people and overthrow the Islamic government are not only unqualified to be divine vicegerents but they are

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١- Surah al-An'am ٦:١١٢.
٢- Surah al-Hijr ١٥:٢٩-٣٠.
٣- Surah al-Baqarah ٢:٣١.

the same human devils who are regarded by God to be viler than animals, and about :whom He says

(إِنَّ شَرَّ الدَّوَابِّ عِندَ اللّهِ الصُّمُّ الْبُكْمُ الَّذِينَ لاَ يَعْقِلُونَ)

Indeed the worst of beasts in Allah's sight are the deaf and the dumb who do not" (apply reason."(١)

To say that human dignity lies in freedom and that anything which limits this freedom is condemnable and unacceptable is a deceptive slogan chanted by the Western world. Without paying attention to its corollaries, some people in other countries have also pursued it and are regularly insisting on it. Undoubtedly, to deal with this slogan

and the objectives it tries to attain requires a lengthy discussion on which we shall .embark in the future

But for the meantime, let us briefly pose this question: What does it mean by saying that man should be absolutely free and have no restrictions at all? Does it mean that there should be no mandatory law? This is something which no rational person will ever accept because it implies that everyone is free to do whatever he likes—everyone is free to commit murder, transgress upon the chastity of women, and create havoc in society! Certainly, the first harm and mischief of such an outlook will be tasted by its proponent. Could there possibly be a society where such freedom is prevalent? Obviously there is no concept of unrestrained freedom and man is not free .to do whatever he likes

:Clarifying that freedom has limitations and restrictions, the question arises

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.Surah al-Anfal ۸:۲۲ -۱

Who should determine the extent and limit of freedom? And, what is the extent of freedom? If every person is supposed to determine the scope and extent of freedom, everyone would do whatever he likes which will manifest the same problems indicated in relation to absolute freedom. So, there is no option but to consider a legal reference in order to describe and determine the scope, limit and boundary of .freedom

In this case, if a person acknowledges the existence of God and believes that He knows better than him what is beneficial and harmful to man, and Who does not acquire any benefit from the lives of people and only wishes what is good for His servants, for him, is there anyone worthier than God in determining the limits of freedom? Thus, there is no contradiction in the intellectual and ideological system of the Muslims because they believe in God who knows best what is beneficial and harmful for human beings. It is He who has stated the limits and boundaries of .freedom

But if we do not believe in God, or believe in monotheism but do not recognize God as the authority determining the limits of freedom and believe that the people themselves should determine the limits of freedom, we will be afflicted with thousands of evils, because people will never arrive at a consensus. Even if the majority determines the limits of freedom, how will the minority that does not accept the limits of freedom determined by the

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majority exercise its rights? So, freedom is an elegant and pleasant term but it is not .absolute and unrestricted. No one can claim absolute freedom

(Session ۶: Freedom in Islam (Part ۲

Expressing skepticism on the foundation of historical development of man

This skepticism is formed based on the historical development and diversity of human culture and civilization and the transformation of social orders. It must be acknowledged that the social life of mankind throughout history has passed through many critical stages and moments. In a certain period in human history, slavery was the issue of the day, and the preservation of human civilization and advancement required that weaker and inferior human beings would be slaves of others and .subjected to forced labor by the latter

It is natural that consistent with that period, the relationship between man and God used to be described within the framework of master-servant relationship because some were masters and sovereigns while some were their servants and slaves, and human relations used to be assessed within the framework of the master-servant relationship. As such, just as the weak were considered slaves and servants of the strong and mighty, all human beings were recognized as servants of God, He being the Master. However, as the system of slavery is now abolished, comparisons to that .period are no longer relevant

Nowadays, man does not feel obedient and subservient. He feels he is his own master. So, he says that we are servants and God is the Master, but regards himself

as the vicegerent of Allah. He who is the vicegerent of God has

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no feeling of servitude and is not inclined to receiving orders and obeying God. Rather, he has a feeling of Lordship. God is dismissed and he replaces Him. He does whatever he likes. This is the age of modernism and the dominance of a new civilization over .mankind

We have attained a level of awareness, growth and advancement in which we cannot afford to accept mandatory order, subservience, obedience, and submission to a great entity. We are in pursuit of lordship and mastership. We have gone through the period of obligation and sense of responsibility. Even if orders, commands and duties are mentioned in the Qur'an as they are, these are related to the age of slavery because when the Prophet (s) began his apostleship [risalah], a great system was prevalent, and the initial structure of Islam and the relationship of God and the .Prophet (s) with the people consistent with that system

Sometimes they say that today man is not looking for duties. He is rather seeking his rights. It is no longer inculcated in his mind that he has any duty, responsibility and obligation to perform. He has to demand his rights and claim them from others as well as God. In short, those who talk from the religious perspective about the exigency of obeying and following the Prophet (s), the infallible Imams ('a) and their deputies are .doing so in consonance with the social system fourteen hundred years ago

The social system, however, has been transformed, and

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it is no longer relevant to talk about obedience, submission and duty. Instead one needs to talk about human rights. The people have to be informed that they have the right to live in whatever way they like. They have the right to wear whatever style of .dress they like, and to appear in public in whatever manner they like

Reply to the above skepticism

We shall approach the reply to the above skepticism from the ontological [takwini] and legislative [tashri'i] angle as we are facing these two stances. In other words, it is the stance of "beings" and realities and the stance of "dos and don'ts" and duties. From another perspective, it is the world of realities while the other one is the world of values. (Of course, the above expressions are equal in substance but because of different levels of understanding various expressions have been presented.)

Now, ontologically, it must be examined what our relationship to God is, because if a person does not believe in God in principle, to assume any relationship with God will be senseless in his view. But if a person has faith in God, he, at least, accepts that it is He who created him. He acknowledges the Creatorship [khaliqiyyah] of God, which is the lowest level of faith in God, and regards himself as among His creatures and phenomena. (Of course, in Islam mere belief in the Creatorship of God is not enough for a monotheist [muwahhid]. In fact, belief in the ontological and legislative Lordship [rububiyyat-e takwini

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wa tashri'i] of God is also necessary for belief in monotheism [tawhid].)

Based on monotheistic belief in creatorship [tawhid fi'l-khaliqiyyah], the statement of one who claims that he is not a servant and slave of God is inconsistent with the belief in the Creatorship of God. The first step in monotheism is to accept that we are God's creatures and that we owe our existence to Him. This is the same as servitude ['ubudiyyah] to God. 'Abd [servant] means to be a slave and in possession of another. So, if a person regards himself a Muslim who believes in God but refuses to accept servitude to Him is in explicit contradiction, because the requisite of belief in God is to regard oneself as His slave and servant. It is for this reason that in their most essential and eminent forms of worship, viz. the salah [ritual prayer], all Muslims say: "I bear witness that Muhammad is His servant and apostle" [Ashhadu anna Muhammadan 'abduhu wa rasuluh].The most outstanding and honorable station of the best human personality is to be a servant of God. As such, God says:

(سُبْحَانَ الَّذِی أَسْرَی بِعَبْدِهِ لَيْلاً مِّنَ الْمَسْجِدِ الْحَرَامِ إِلَی الْمَسْجِدِ الأَقْصَا...)

“Immaculate is He who carried His servant on a journey by night from the Sacred Mosque to the Farthest Mosque...”(۱)

Yes, because of the lofty position of servitude to God, in the Qur’an God has repeatedly used the elegant term “‘abd” and its derivatives, regarding utmost servitude as the loftiest station of human perfection when

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۱- Surah al-Isra’ (or Bani Isra’il) ۱۷:۱.

He says:

(یَا أَیَّتُهَا النَّفْسُ الْمُطْمَئِنَّهُ ▯ ارْجِعِی إِلَی رَبِّکِ رَاضِیَهً مَّرْضِیَّهً ▯ فَادْخُلِی فِی عِبَادِی)

“O soul at peace! Return to your Lord, pleased, pleasing! Then enter among My servants!”(۱)

From the legislative angle, to say that freedom of man is inconsistent with subservience to law and assumption of responsibility will lead to savagery, barbarity and chaos. This notion that being free man can do whatever he likes and even defy the law he himself approved of is inapplicable even in the jungle because there also are certain laws observed by the animals! We, beating the drum of civilization and civility, have to accept that the first pillar of civility is the acceptance of responsibility and observance of law. Through unconditional non-acceptance of restrictions and responsibility, one can not claim modern civilization. Rather, he should find himself drowned in the lowest firm if barbarity.

In other words, the most eminent human faculty is reason, which insists that man should accept responsibility and regard himself bound ‘to do’ and ‘not to do’ certain things. Based on this, if a person wore a dress as he pleased, or appeared naked in public, uttered gibberish nonsense, who would treat him as being in the right frame of mind? Will he not be considered insane, stupid or even savage? If asked, “Why are you behaving thus?” he replies, “I am free and freedom is the hallmark of humanity. I

?just feel like that," is there anyone who will accept him

It follows that the hallmark of humanity is

.Surah al-Fajr ۸۹:۲۷-۲۹ -۱

the intellect and the corollary of rationality is the acceptance of responsibility and observance of law, for there is no civility without legality. If there is no sense of responsibility, humanity will also not be realized. That man is free, i.e. to have the power to choose, does not mean that legislatively he should not submit to laws, decrees and mandatory orders and not accept any limits and boundaries in his social life. As such, it should not be imagined that religion's assumption of wilayah is opposed to human freedom, because freedom is the most eminent feature of man !and a requisite for being the viceroy of Allah

Expressing the above skepticism through a different approach

Some say that considering the development and evolution in the various stages of human life as well as new beliefs, outlook, ways of thinking, and requisites of the present civilization, today's religion should be concerned with human rights, and not .duties and mandatory orders

In reality, modernism and the modern civilization have created a tall wall between us .and the past people who were servants and slaves serving others

As such, modern man has wound up the case of acceptance of duty and responsibility which belonged to the age of barbarity and intransigence, and is striving to reclaim his rights. Nowadays, to talk about duty and discharging of responsibility is retrogression and a return to the pre-modern age. In this age of human rights, when by the blessings of democracy, man was released from the bondage of slavery and colonialism, the time has come

for us to abandon the ancient religions which were consistent with the age of slavery .and turn our attention to new religions that talk about human rights

In a bid to realize their statement and objective and draw the attention of society, especially the youth, to such statements, the skeptics utilize various means. But we .shall reply to them on the basis of correct and firm logic

Reply to the above skepticism

The claim that today's man is only looking for rights without duties is an idle and false claim. As legal philosophers say, "No right can be established for a person without there being a duty established for others. For example, if the right of using clean and fresh air is established for a citizen, other citizens are duty-bound not to pollute the air. So, if everybody has the right to pollute the air, the right to use clean air loses .meaning

Similarly, if a person has the right of possession to his properties, others must be obliged not to embezzle them; otherwise, the right to benefit from one's possession will not be actually realized. In the same vein, every right established for a person has a corollary duty he has to discharge toward others. If a person has the right to benefit from public utilities as he really has, he is obliged in return to serve the society, accept duties and responsibilities, and not to burden others. Therefore, rights and duties—in both senses—are correlative and to say that people demand rights without responsibilities is

.inadmissible

Considering that all religious and non-religious scholars as well as legal philosophers, in general, acknowledge the existence of duty and commitment, we conclude that what is meant by duty in the statements of the skeptics is divine duty. The essence of their statements is that God should not set any duties for us. On the contrary, according to them, social duties are not within the framework of rights that individuals possess because these duties are acceptable to all rational people. This confirms that

the master-servant relationship, the master's issuance of an order, and, the exigency of obeying him, are consistent with the culture of slavery and, therefore, irrelevant .today

Disobedience to God in the past

It is not only modern man who refuses to submit to God, religion and divine duty. Many people throughout history did not submit to divine duties but engaged in rebellion and violation of law. To say that man is looking for his rights and not duties is not new. In the very beginning Qabil (Cain), the rebellious son of Adam ('a) openly disobeyed divine ordinances. His violation of law and selfishness led him to murder his :(own brother Habil (Abel

(وَاتْلُ عَلَيْهِمْ نَبَأَ ابْنَيْ آدَمَ بِالْحَقِّ إِذْ قَرَّبَا قُرْبَانًا فَتُقُبِّلَ مِن أَحَدِهِمَا وَلَمْ يُتَقَبَّلْ مِنَ الآخَرِ قَالَ لَأَقْتُلَنَّكَ قَالَ إِنَّمَا يَتَقَبَّلُ اللّهُ مِنَ الْمُتَّقِينَ)

Relate to them truly the account of Adam's two sons. When the two of them offered" an offering, it was accepted from one of them and not accepted from the other. [One of them] said, 'Surely I

(will kill you.' [The other one] said, 'Allah accepts only from the God-wary'."(١

The historical accounts of the prophets of Allah ('a) mentioned in the Qur'an indicate that most people used to belie their own prophet. Not only did they reject his prophetic call but also wrongly accused him. They used to ridicule and mock their own prophet and even kill or expel him from their city. If a prophet would say something beneficial for them by prohibiting them from doing wrong, for e.g., weighing wrongly :—"And do not cheat the people of their goods"(٢)—they would say to him in return

(قَالُواْ يَا شُعَيْبُ أَصَلاَتُكَ تَأْمُرُكَ أَن نَّتْرُكَ مَا يَعْبُدُ آبَاؤُنَا أَوْ أَن نَّفْعَلَ فِي أَمْوَالِنَا مَا نَشَاء...)

They said, 'O Shu'ayb (Jethro), does your worship require that we abandon what our" fathers have been worshipping, or that we should not do with our means whatever (we wish?... '"(٣

It may possibly be said here that the opposition and hostility to the prophets and saints [awliya'] of Allah throughout history has been the result of idol-worship, polytheism and satanic rebellion. Our point is that man should neither wear the yoke of servitude to every object of worship [ma'bud] nor follow the idols and Satan.

But this statement is unwise from the authentic viewpoint of revelation [wahy], because according to it, man is situated between two ways—servitude to God or servitude to the taghut(۴)—and it is impossible not to choose one of them. If a person chants the slogan that "I am nobody's servant," in reality

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۱- Surah al-Ma'idah ۵:۲۷.

۲- Surah ash-Shu'ara' ۲۶:۱۳۸.

۳- Surah Hud ۱۱:۸۷.

۴- The term taghut applies to any idol, object, or individual that prevents men from doing what is good, and leads them astray. The term has been used eight times in the Qur'an. Prior to Islam, taghut had been the name of one of the idols of the Quraysh tribe. This name is used also to mean Satan. Moreover, the term is used to indicate one who rebels against lofty values, or who surpasses all bounds in his despotism and tyranny and claims the prerogatives of divinity for himself whether explicitly or implicitly. [Trans.]

he is a servant of the taghut and his own carnal desires. As such, the Qur'an says:

(اللّهُ وَلِيُّ الَّذِينَ آمَنُواْ يُخْرِجُهُم مِّنَ الظُّلُمَاتِ إِلَى النُّوُرِ وَالَّذِينَ كَفَرُوا أَوْلِيَآؤُهُمُ الطَّاغُوتُ يُخْرِجُونَهُم مِّنَ النُّورِ إِلَى الظُّلُمَاتِ...)

"Allah is the Master of the faithful: He brings them out of darkness into light. As for the faithless, their patrons are the Rebels [taghut], who drive them out of light into darkness..."(۱)

In another place, God says:

(أَلَمْ أَعْهَدْ إِلَيْكُمْ يَا بَنِى آدَمَ أَنْ لا تَعْبُدُوا الشَّيْطَانَ إِنَّهُ لَكُمْ عَدُوٌّ مُبِينٌ ۝ وَأَنْ اعْبُدُونِى هَذَا صِرَاطٌ مُّسْتَقِيمٌ)

Did I not exhort you, O children of Adam, saying, 'Do not worship Satan. He is indeed" (your manifest enemy. Worship Me. This is a straight path'?"(۲)

The verse does not mean that after abandoning the worship of Satan, man is no longer in need of obeying and worshipping another being. In fact, he has to worship God. Just as in the formula of monotheism, "There is no god" [la ilaha] is followed by the phrase, "but Allah" [illallah]. Therefore, those who have woken up from the slumber of negligence by the light of revelation and have realized that they have to worship God for He is their real Creator and Master, in His hand is life and death, youth and old age, wellbeing and ailment. For them, to worship Him is the highest honor. His ordained duties stem from the spring of infinite wisdom and mercy, and .acting upon them bring human felicity and perfection

,Realizing that refusal to accept the truth

.Surah al-Baqarah ۲:۲۵۷ -۱
.Surah Ya-Sin ۳۶:۶۰-۶۱ -۲

duty and responsibility are caused by man's lack of nurture [tarbiyyah], bestiality and following of Satan, and have always existed in history and not only found in modern man. In fact, it is modern man who has desisted from the essentials of civility and turned toward the age of ignorance and savagery, and become the intransigent. On the contrary, those who have been trained in the school [maktab] of the prophets ('a) have desisted from bestiality and savagery and have chosen civility through the rule .of law and acceptance of duty and responsibility in the true sense of the word

Civilization and civility are the opposite of savagery and their main requisite and condition is the recognition of law. There fore, how can some people say that modern civilization demands that man should not accept any duty?! Is this civility, or savagery? Basically civilization is based on the acceptance at limitation, law and .assuming responsibility; otherwise it has no difference with savagery

Thus, he who refuses to accept the law, duty and responsibility actually advocates a return to savagery and barbarism. Certainly, he who has such an idea and disposition can never be the saintly vicegerent of Allah, who is our model. (It is necessary to note that the slogan of civility and the rule of law prevalent nowadays in our society, means the attainment of the peak of civility and the rule of law in which there is no violation whatsoever. It is a fact that something new has

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happened, and our society since the past ۱۹ years,(۱) after the victory of the Islamic Revolution, is now moving toward civility. In fact, our Revolution occurred on the basis of the perennial civility and civilization of Islam, and one of its principal mottos and objectives was the observance of divine law in all affairs.)

Following God and freedom

Again, the axis of the prophets' call is to obey and worship God and not follow the taghut. God says:

(وَلَقَدْ بَعَثْنَا فِی کُلِّ أُمَّهٍ رَّسُولاً أَنِ اعْبُدُوا اللّهَ وَاجْتَنِبُوا الطَّاغُوتَ...)

"Certainly We raised an apostle in every nation [to preach:] 'Worship Allah, and keep away from the Rebel'..."(۲)

Given this, it cannot be accepted that Islam is based on non-obedience to others including God. Essentially, any religion that calls upon us to disobey God is false. As indicated earlier, the essence of the prophets' call is absolute obedience to God from whom entire creation emanates and who is the Beginning, the End and Real Master—

"Indeed we belong to Allah, and to Him do we indeed return."(۳)

Now, once we recognize God as the Real Master of the universe and ourselves, how can it be accepted that He has no right to give orders and issue decrees to us? Is ownership other than that the owner can use his property in whatever way he likes? Therefore, it is inadmissible to claim that we have accepted Islam yet we have not

subjected ourselves to the bond of servitude to God; for, absolute freedom is condemned by both religion and the intellect.

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۱- Trans.] It is now almost three decades.]

۲- Surah an-Nahl ۱۶:۳۶.

۳- Surah al-Baqarah ۲:۱۵۶.

Islam and religion are proclaimers of freedom. This is freedom from worship, and obedience of the taghuts and other than God, and not a deliverance from obedience to God. Man is created free and autonomous but he is legislatively and legally bound to follow God. He has the right to freely choose to obey or disobey God. Essentially, in the world of creation the seal of servitude is put on every phenomenon. Intrinsically, no creature exists without the mark of servitude to God:

(تُسَبِّحُ لَهُ السَّمَاوَاتُ السَّبْعُ وَالأَرْضُ وَمَن فِيهِنَّ وَإِن مِن شَيْءٍ إِلاَّ يُسَبِّحُ بِحَمْدَهِ وَلَكِن لا تَفْقَهُونَ تَسْبِيحَهُمْ...)

"The seven heavens glorify Him, and the earth [too], and whatever is in them. There is not a thing but celebrates His praise, but you do not understand their glorification."(۱)

In connection with the servitude and worship of creatures, God also says:

(أَلَمْ تَرَ أَنَّ اللَّهَ يُسَبِّحُ لَهُ مَن فِى السَّمَاوَاتِ وَالْأَرْضِ وَالطَّيْرُ صَافَّاتٍ كُلٌّ قَدْ عَلِمَ صَلَاتَهُ وَتَسْبِيحَهُ...)

"Have you not regarded that Allah is glorified by everyone in the heavens and the earth, and the birds spreading their wings. Each knows his prayer and glorification."(۲)

Yet, due to the possession of reason and intellect, man has been created free and autonomous. God, the Exalted, has shown him the way to guidance or misguidance, but he is free in choosing his way. Almighty Allah says:

(إِنَّا هَدَيْنَاهُ السَّبِيلَ إِمَّا شَاكِرًا وَإِمَّا كَفُورًا)

"Indeed We have guided him to the way, be he grateful or ungrateful."(۳)

He has to take into account the purpose and philosophy of his

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.Surah al-Isra' (or Bani Isra'il) ۱۷:۴۴ -۱
.Surah an-Nur ۲۴:۴۱ -۲
.Surah al-Insan (or, ad-Dahr) ۷۶:۳ -۳

creation and know that he has to engage in servitude and submission to God. The legislative law of God does not permit him to move along the path of obedience to Satan and other than God. Man has to worship God and perform his duties to Him :because God has created him for such a purpose

(وَ ما خَلَقْتُ الْجِنَّ وَ الْإِنْسَ إِلاَّ لِيَعْبُدُونِ)

(I did not create the jinn and humans except that they may worship Me."(۱"

Now, since worship of God is harmonious with the system of creation, discharging of divine duties, acting upon one's obligation and responsibility toward Him and being thankful to the All-merciful Creator who gives us life and endows us out of His grace and favor with wellbeing and innumerable blessings is necessary—just as God says in :(the tongue of Hadrat Ibrahim (Abraham) ('a

(الَّذِی خَلَقَنِی فَهُوَ یَهْدِینِ. وَ الَّذِی هُوَ یُطْعِمُنِی وَ یَسْقِینِ. وَ إِذا مَرِضْتُ فَهُوَ یَشْفِینِ. وَ الَّذِی یُمِیتُنِی ثُمَّ یُحْیِینِ)

It is God) who created me, and it is He who guides me, and provides me with food)" and drink, and when I get sick, it is He who cures me; who will make me die, then He (will bring me to life"(۲

how can we afford to refuse to follow Him. Is it fair and righteous for us to say that modern man does not believe in duty and obedience and is only interested in his rights? Does Islam accept this logic? Undoubtedly, such thinking is devoid of rationality

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.Surah adh-Dhariyat ۵۱:۵۶ -۱

.Surah ash-Shu'ara' ۲۶:۷۸-۸۱ -۲

.and far from humanity, let alone having an Islamic basis

Session ۷: Freedom, Its Limits and Boundaries

Islamic political theory and skepticism on alleged restriction of freedom

Since Islamic society must be administered on the basis of Islamic laws and decrees, the law-implementers must not go beyond the bounds of Islamic decrees and orders since people are bound to act upon Islamic laws. A skeptical voice questions: Is this concordant with human freedom? In making rules and regulations for his life and the manner of implementing them, man has to be free. For us to say that he has to move within the framework and observe the rules and regulations is inconsistent with .human freedom, which is one of his inalienable rights

Before dealing with the above skepticism and question, I deemed it necessary to state a point as an introduction which is also beneficial in other discussions and which must be given close attention. Once we are dealing with essential and joint concepts, for example, in natural sciences it is not difficult to understand essential concepts, like "water," "movement" and "lightning"; in medical affairs, "eye," "ear," "hand and foot," ."stomach," "lung," and "liver," because everyone knows what these terms mean

However, understanding intricate concepts—like philosophical concepts and concepts used in social sciences and humanities such as psychology, law, political science, and the like—is difficult. Some times terms have many definitions which can easily confuse. While discussing such terms, people do not arrive at definite and certain .conclusions

For example, all of us are familiar with the term "culture". This term has often been used

in educational systems, poems, literary works and daily conversations. Yet, if one is

asked what culture is, not a single person in one thousand could define culture correctly. Even the experts who have come up to define the term "culture" believe that this term has fifty to five hundred definitions! Naturally, when the commonly used term 'culture' can be so ambiguous in its definition, the ambiguity will consequently .influence everything associated with it, especially social issues

When there will be talk about cultural development, it will be pertinent to ask what cultural development is, what its manifestations are, and, in what form and way it takes place. If a budget for cultural development is approved by the Islamic Consultative Assembly but specific expenditures and clear manifestations of it are not taken into account, there will be difficulty in defining this term, only certain manifestations will become the object of attention, and the ground for abuse by .exploiters will be opened

Different outlook on concept of freedom

Intricate concepts like freedom have no specific manifestations and are difficult to define. Whenever freedom is mentioned, the listener feels pleased. Almost all peoples and nations believe in the sanctity of freedom because man inherently wants to be .free

If we try to examine the set of articles, books and treatises relevant to the concept of freedom, especially works published in recent years, we will find out that there is no common and specific concept about freedom among authorities and writers. A person defines freedom in a certain way and defends

it while another person defines it in a different way and criticizes the other definition. Given this difference and divergence of opinion, they cannot arrive at a consensus on which the discussion can be concluded. Once we know what freedom means we can .reply to the question whether freedom is harmonious with Islam or not

Regarding a term which has numerous meanings—such that Western writers have mentioned as many as about two hundred definitions many of which are close to one

another, their difference being only a matter of commission or omission of one or two words, there also being cases where the definitions are inconsistent with one another ?—how can they judge whether it is harmonious with Islam or not

Similar to the term "freedom" is the term "democracy", which is a Western term. It is sometimes defined as "populism" as well as "the government or sovereignty of the people". But an exact and specific meaning of it has not yet been presented. It is not clear whether democracy is a form of government or a set of social behavior. Is it related to the realm of government and political issues, or to the realm of sociology or management? There are many discussions in this regard. In addition, the translation .of such terms from one language to another exacerbates the ambiguity and problem

Similar is the case of the term "liberalism" which was formerly translated as "freedom-loving" and like the term "freedom", possesses distinct attractiveness, sanctity and desirability. As such, during

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the final decades of the Pahlavi rule, parties described as "freedom-loving parties" .were formed

So, in view of the ambiguities existing in such intricate concepts, the discussion will be problematic because the concepts tend to become error-prone. It cannot be said with certainty that this is the limit of the meaning that will no longer be changed. Such concepts are extensive, have no definite limits and boundaries and being broad in meaning. Naturally, these difficulties make the discussion ambiguous and .complicated

Now, in view of these problems, ambiguities and difference in understanding and outlook on freedom, if we want to compare each of these definitions with Islam, such a work in the academic environment will be onerous and complicated, let alone in a public discussion meant for a diverse strata of people. As the only option, we will have to use the empirical and comparative approach to see what notion the proponents of freedom hold about it and what they want from it. Then we will see whether what

.they want from it is harmonious with Islam or not

What do those who advocate and defend freedom, and claim that there is no freedom in this country (Iran) want from freedom? Is there no freedom of the press? Or, do the people have no individual freedom? Do they have no political, social and economic freedom? Or, do they have no freedom of expression? Basically, it must be seen in .what condition and way these claimants regard the people as free

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Freedom as not absolute and rejection of freedom's predominance over religion

Usually, individuals exploit intricate and ambiguous concepts such as "freedom" to serve their motives. They mention these concepts equivocally so that the addressee understands it in a certain way while they mean something else, and thus they advance their sinister motives. For example, in the discussions, speeches and articles, some magazines and newspapers have posed this question: Has religion predominance over freedom, or vice versa? Is freedom the basis while religion ?follows it, or vice versa

Undoubtedly, this question seems to be scientific and great curiosity is aroused to know whether religion or freedom predominates. But in actual discussion, if we say that religion predominates, they will say, "Since a person should be free to accept religion, as long as he is not free how can he choose a religion and predominates it? So, it becomes clear that freedom predominates over religion." They then conclude that religion cannot restrict freedom because freedom is the basis of religion! So, man can do whatever he likes and think in whatever way he wants! As you can see, this fallacious argument seems to be reasonable because if a person is not free, how can ?he accept Islam

It thus follows that freedom predominates religion, is the basis of religion, gives credence to religion, and is essentially the reason behind the existence of religion. In this case, religion can no longer remove or restrict its producing and constructive element. In the end, they conclude that in every religious environment, every person

!should have ultimate freedom

Others

argue that when man is created, he is not a slave but free. So, he should also remain free all his life. They also argue that to have autonomy and freewill is an unequal value. As such, if at the time of coming to this world the hands and feet of man are paralyzed and he is dumb, what is his value? His value lies in his being free to go wherever he wants, do and say whatever he likes. Since man has been created intrinsically free, it follows that he should also be legislatively free! This is the same fallacy that incorrectly deduces "dos and don'ts" from "being". But if we try to deal with these subjects seriously, we need to present precise academic philosophical .discussions before arriving at any conclusion

As stated earlier, if we try to discuss the definition of freedom, we have to examine tens of definitions. As such, it is better to deal with its manifestations and ask those who are shouting for freedom: "Will you allow somebody to slap you and agree that he is free to do so?" They will say, "Obviously, we do not mean a violation of the rights of others." We thus conclude that freedom is desirable as long as it does not violate the rights of others and thus it is not absolute. Now, if we ask them, "Will you allow anyone to say anything about your family and chastity? He will not beat you. He will only insult

".you, revile you and abuse you

Naturally, they will not allow it because this act is also a violation of the integrity and chastity of every respectable person in society. Thus, it is clear that attack on one's .integrity and chastity is not only confined to physical violation

Now, if someone wants to write something in the newspaper against a person and besmirch his reputation, there is no physical contact and there is no verbal insult and

defamation, will that person allow him? He will certainly not allow him. He will regard this act as a violation of his reputation and integrity. He will not allow others to besmirch his reputation and trample upon his rights. Thus, so far three main conditions of freedom have been confirmed. If these conditions are not observed, the .rights of others will be violated

Need to observe the values and sanctities of every society

Another point which we have to deal with is that values and sanctities are different in every society and considered relatively. For example, in some societies there is no problem if a person wants to have a relationship with the sister or daughter of another person. As, in European and American countries, if a person wants to establish a friendly relationship with any woman there is no restriction if it is with the consent of the two parties. But if the woman is forced she goes to court to say that he had sex with her without her consent, and the court will examine her claim. But there is no

problem if a man and a woman have a voluntary sexual relationship! If a person tells another, "Your sister is my girlfriend and last night we were together in a certain place," this statement is not strange in Western culture. In fact, some would even be pleased to hear it. In our society and environment, however, it is uncalled for and .treated as an abuse, and no one has the right to say so

From this, we can deduce another thing and that is, every society has its own values and regards certain things as respectable and sanctified which another society does not. Now, what is the source of these values and sanctity? Undoubtedly, it is the culture, social environment and beliefs of every society. Obviously, these values are defined according to the culture and social environment of every person in every country. Hence, if in a certain place something is sanctified and respected according to the specific culture of those people, it should not be violated and slighted. No person has the right to say whatever he likes anywhere. He has to speak carefully, so that the values of those people are not violated. In our society, however, being

different from that of the West, freedom does not allow anyone to say anything about people.

Thus, freedom, as some have imagined is unacceptable to any rational person. In Islamic society, no one has the right, under the pretext of freedom, to disrespect the sanctity of Islam and those that are

dearer to people than their own lives.

Our people proved that they were willing to sacrifice hundreds of thousands of their dear ones for the sake of Islam. When a person is insulted in the West in any way—for example, it is said to him that he is ugly and big-nosed—he has the right to go to a court of law and file a complaint. In our culture, if a person abuses something which is dearer to the people than their mothers, fathers, spouses, and children, do the people not have the right to protest against him for expressing his disrespect for their most valuable possession, under the name of freedom?

Illegitimate motives in exercising freedom

What do those who talk about freedom and allege its absence in Iran, want to say? Some of them yearn for the Western lifestyle. In Iran this practice is not allowed. Why? Is it because the Islamic government receives orders from Islam, God and the Prophet (s)? They do not want to accept the decree of God, so they object to the orders of the wali al-faqih, while the wali al-faqih does not say anything from himself:

(فَإِنَّهُمْ لاَ يُكَذِّبُونَكَ وَلَكِنَّ الظَّالِمِينَ بِآيَاتِ اللّهِ يَجْحَدُونَ)

"Yet it is not you that they deny, but it is Allah's signs that the wrongdoers impugn."(١)

Does the duly competent faqih and marja' at-taqlid [source of emulation] say something about himself? Whatever he says is taken from the Qur'an and a hadith, words of God and the Prophet (s), but they do not want to acknowledge this

.Surah al-An'am ۶:۳۳ -۱

fact. In open spaces at prestigious American universities, male and female students behave in a manner that we are ashamed of mentioning. It is obvious what must be taking place in the places of pleasure of such a society. If a film taken in one of these places of pleasure is placed at the disposal of the youth in this country, you might !guess what impact it will have

Naturally, a youngster who watches such a film will have no peace of mind when he goes to the university in the morning because he remained awake the night before. There is already an intense sexual urge in him, which watching such a film will intensify and deprive him of tranquility and peace of mind. When such a youngster shouts that there is no freedom, it means that "You do not allow me to do the thing I wish to do" and all the allegations against the Islamic government stem from the .desire to gratify the sexual urge. So you need to know what you want from freedom

If you want permission from an Islamic government to do whatever is permitted and practiced in the environment of unbelief and atheism, rest assured that it will not be allowed, because the people sacrificed their beloved ones for the sake of implementing the values of Islam, and not allowing Western debauchery and .corruption to become rampant

Some people might say that we are indeed Muslims, have voted for this system, believe in the

Imam and the Leader, and we do not want the kind of freedom prevalent in the West. Rather we want to have the freedom of expression, freedom of the press and freedom of action. Grant this freedom to us and allow us to say whatever we want. .This point of request is reasonable

In the Universal Declaration of Human Rights, one of the primary rights considered for all human beings is the freedom of expression and the freedom of the press as

democratic principles. They will be told, "You are free to write and express your opinion regarding the performance of the implementers of laws. But, if you want to write something about the Islamic principles and values and negate everything, or insult religious sanctities, you will have to question yourself, not the government.

Limits of freedom of expression

If freedom means speaking and writing freely about things that are not permissible in action, it is clearly paradoxical. When somebody utters a single offensive word against you, you are ready to go to a court of law and file a complaint? How come you do not allow somebody to publish certain personal matters about you in a newspaper yet demand the freedom to divulge the secrets of a nation? How come divulging personal secrets of a person is not permissible, but divulging the secrets of a nation is permissible?!

In your opinion, when a person turns into seventy million people, divulging his secrets becomes permissible! Should it not be proper to observe a limit with respect

to a society both in speech and writing, and realize that everything cannot be uttered and written? Every society has its sanctity, rights and values, which must be preserved, not violated.

How can one allow the abuse of the religious sanctity of a society of sixty-million people which has offered hundreds of thousands of martyrs for its preservation? Do you think that there should be no limitation? Under the pretext of freedom, you demand no legal restrictions and limitations? Is freedom absolute? If freedom were really absolute, it follows then that I also have the right to say anything I want about a person!

When the reputation and sanctity of a seventy-million strong nation are violated and a complaint lodged against you, you cry 'freedom of expression'?! Which fallacy is more serious: tarnishing the reputation of a person or a nation of seventy million, nay a society of one billion Muslims? What kind of logic is this? The fact that the freedom

of expression and the press has been stipulated in the Universal Declaration of Human Rights, is defamation of religious sanctity also permissible?! One ambiguous .word—"freedom"—is used, interpreted and exploited by whoever pleases to do so

Need to explain concept and manifestation of terms

Instead of using ambiguous and confusing terms, I will focus on their manifestation to decide whether a demand is permissible or not. For example, instead of asking whether Islam is compatible with democracy or not, you have to ask, "What do you want and what do you wish to do? If you want to disregard

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God and His decrees, then this is not permissible in Islam. If democracy means that the people have the right to enact any law even if it is against the law of God, we will .not accept such a democracy even if the whole world backs it up

However, if by democracy it means that the people have the right to chart their own destiny without compulsion, provided they uphold the sanctity of Islamic values, laws and foundations, then this is something that has been functioning in our country from the beginning of the Revolution. If we claim that in no country in the world is the vote of the people respected as much as in Iran, it is perhaps not an exaggerated claim. Since I have no sufficient documents and evidence at my disposal, I say "perhaps" but .I personally believe that such freedom does not exist in any other place in the world

So, instead of debating on the word "democracy whether Islam is compatible with it or not, it would be wiser for you to specify its manifestations. For example, does Islam permit legalizing homosexuality? Islam will never allow it even if all the people unanimously approve it. If democracy is so unrestricted and unlimited, we do not .accept it

However, if by democracy you mean that the people should have free elections, freely elect the members of parliament and the president, and have the right to call to ,account the members of parliament and other government officials

this freedom must surely exist as it does, and we totally support it. So, instead of using terms equivocally and disputing over them, it is better for us to discuss manifestations. Concepts such as freedom, democracy, liberalism, civil society, civilization, and culture are ambiguous and elicit various interpretations. To dispute over them is in no way reasonable. Instead, you have to say what you want so that .we can say that it is consistent or inconsistent with Islam

Session ۸: An Elucidation of the Structure and Form of Government

Status of elemental and evidential definition

In this session our discussion is about the structure and form of the Islamic government. Along this line, I deem it proper to narrate a recollection from the Great Leader of the Islamic Revolution in Iran, Hadhrat Imam Khomeini (q). During the beginning of the Revolution foreign reporters asked the Imam, "After overthrowing the monarchical government, what government and regime will you establish?" He ."(replied, "A government like that of the Commander of the Faithful ('a

Defining and describing the Islamic government to reporters with a particular culture and social fabric and no mental preparation to grasp Islamic concepts in view of their fundamental differences with us in this context, required many hours. Yet, the Imam gave them a complete and convincing answer in one sentence, because by knowing the distinctive features of the government of the Commander of the Faithful ('a)—which is known to both friends and foes, and to know which does not require much .extensive study and examination—the model of our government could also be known

This

type of explanation and definition, i.e. evidential definition, is the simplest way of describing the nature of a thing to the masses because understanding intricate concepts is difficult for them, so by indicating external manifestations and samples,

they understand better. For example, in order to explain electricity, we show them an electric light or an electric device. In this type of definition, the characteristics, properties and salient features of a thing are not mentioned. In the academic and scientific circles, however, the definition must be derived from the principal or secondary features which describe the genus and quality mentioned in logic. In this kind of definition, initially the general and broad meaning is mentioned and then the .specific meaning that excludes other types

Another way of identifying the nature of a thing is to consider the elements. That is, the essentials and features of a thing are examined and their totality serves as the definition of that thing. In view of the number and scope of the essentials and features, any person will conclude that any thing having those features has the .nature under consideration

Islam and theory of separation of powers

point

The macrostructure of the Islamic government and its basic features, or the Islamic theory on politics can be defined in one sentence. The Islamic theory on politics is: all aspects of politics and government are divine, and inspired by the Source of .revelation. This point determines the Islamic nature of the system and government

In describing comprehensively the Islamic government it is necessary to consider

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the theory of separation of powers mentioned in the philosophy of law. During the last centuries there were intense disputes and conflicts among legal philosophers over concentration or separation of powers. These were on whether all powers should be in the hands of an individual or group, or powers should be separated from one .another and every person or group should be concerned with only one power

Finally, after the Renaissance, particularly after Montesquieu—who wrote a major treatise entitled "The Spirit of the Laws" (۱۷۴۸) in which he emphasized separation of

powers—legal philosophers arrived at a consensus on separation of powers and their three divisions, viz. the legislative, the judicial and the executive. These were considered as the main branches of democratic and popular governments.(١) For each of the powers a distinct realm and area was taken into account so that none of the powers was authorized to interfere and meddle in another's domain and their independence officially recognized. After the separation of powers, a definition was :presented for each of them. We shall briefly mention their functions below

Legislative power .١

One of the important pillars of government is the legislative. In view of the continuous change in social life and the need to formulate appropriate laws for every change, a group of individuals sit together, and, after discussion and deliberation, enact laws .and regulations for the management of society, which are official and binding

Judicial power .٢

After the codification of laws and their official recognition and accreditation, there is a need to consider a

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Sometimes, in contrast to the common term "government" applied to the three - ١ powers, "government" is only applied to the executive power. Of course, this is a specific term which is used in limited cases. Usually, "government" is used in its .common and broad meaning

branch of government and apparatus to adapt general laws to particular cases, to identify rights and duties, and to remove differences and disputes. In case of a dispute among citizens, or among organs, or between the citizens and the government, as well as in relation to the violation of the rights of people, the only authorized agency to adjudicate, attend to and adapt laws to those cases is the judicial power. Mere ratification of laws in parliament cannot solve any problem, because in times of dispute and discord, everyone deems himself rightful and

.interprets the law in his favor

Executive power .۳

Undoubtedly, In order to achieve its objectives, society is in need of law, but all people do not observe the laws. In fact, there are various motives to violate them. The law needs an executive power which possesses sufficient clout to implement the rules and regulations. The executive power is expected to implement laws, deter violations and implement judicial decrees passed in judicial courts. Along this line, if naked force is needed to implement laws and punish violators and criminals, disciplinary forces .can be employed

We briefly stated the theory of separation of powers in democratic and popular systems. We do not intend to explain the Islamic viewpoint on the theory of separation of powers but we deem it necessary to note that in the Constitution of the Islamic Republic of Iran, the principle of separation of powers has been accepted, while the principle of wilayah al-faqih, which emanates from the Islamic nature

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of the system, serves as the point of connection between the powers. Legitimacy of powers in the Islamic system lies in the Islamic and divine structure, and in a sense in their connection to the Origin of creation, but wilayah al-faqih is the system's link to .God and its basis of legitimacy

Once we talk about the enactment and implementation of laws in the realm of Islamic political system and claim that the aggregate of approved laws and rules should be Islamic and religious, we make it clear that Islam is concerned not only with issues pertaining to prayer and fasting, worship and supplication, but it is a comprehensive code of life that embraces social law, corporate law, civil law, commercial law, .international law and other laws needed by society

Thus, as principle and rule, we have accepted that Islam has social laws that bind the government to regard them as credible and strive to implement them. According to Islam if a government neither regards the laws of Islam as credible, nor strives to

.implement them, it is an illegitimate government

Skepticism on alleged impotence of Islam in social administration

Here the expressed skepticism is that man is increasingly in need of ample new laws. Indisputably, in the text of the Qur'an, the Sunnah of the Prophet (s) and the sayings of the pure Imams ('a) not all the laws addressing the needs of the day can be found. Nowadays, man needs a set of laws whose subjects did not exist during the early period of Islam, for which specific

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.rulings need to be issued

For example, let us consider the laws pertaining to airspace and the air jurisdiction of countries. Does an airplane have the right to enter the air jurisdiction of another country with the permission of its authorities or not? Such laws basically do not exist in the Qur'an, the Prophet's Sunnah and sayings of the Ahl al-Bayt ('a) because at the .time, there was no airplane to be discussed

The same applies to traffic and driving rules as there was no car at the time as well as laws on seas and outer space and other subjects and there is a need for legal experts and legislators to enact appropriate laws for them after thorough examination and .contemplation

Given the fact that the said laws that address all needs of society do not exist in the Qur'an and the Sunnah, how can it be claimed that Islamic and divine laws must be !?implemented in society when in fact Islam has no law in so many areas

Society is in dire need of such laws, which we cannot find in Islamic sources. What ?options do we have? How can we consider ourselves as bound by Islamic laws

What has been mentioned made those who have no faith in Islam express skepticism in religious laws as impractical and insufficient to administer society, and suggest more efforts be exerted on enacting and implementing man-made laws. In order to

portray the subject as confusing and complicated, they expressed the above ,skepticism in various forms

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.and people also exacerbated it for different motives

Undoubtedly, their goal is to undermine the Islamic government and to inculcate the notion that Islam cannot administer society. Therefore, the plant if the Islamic Revolution and Islamic government and emphasis on it is futile and the idea of "Islamization" of the government should be forgotten, because it is not feasible. Unfortunately, some sympathizers of the Islamic Revolution and followers of Islam have also been influenced by this skepticism. It is necessary to present an appropriate reply so that, they remain faithful to Islamic laws, and find solutions to .cases in which society needs a law which has no precedence in Islamic sources

Types of laws and necessity of enacting variable laws

point

In reply to the above skepticism, it is necessary to explain at the outset that law has a general and broad meaning which also includes natural laws such as laws on physics, Lavoisier's(۱) law on chemistry, Newton's law of gravity and Einstein's law of relativity. This group of laws that exist in nature and can be empirically proved are discovered by scientists and are not enacted. These fixed and actual laws are related to natural .phenomena, and have nothing to do with legal, political and social laws

Similarly, we are not referring to rational laws such as laws on logic, philosophy and mathematics. We are referring to enacted laws which are technically called "conventional laws" [qawanin-e i'tibari]. Of these laws those that are credible and can be implemented, provided they are enacted by a credible authority, can be divided

p: ۱۱۹

Antoine Laurent Lavoisier (۱۷۴۳-۱۷۹۴): French chemist, who is considered the - ۱

[.founder of modern chemistry. [Trans

:into three types

The constitution .۱

Constitution means a set of relatively permanent laws codified by competent authorities for a country in accordance with its culture and traditions. These relatively permanent laws are binding for a long period and considered as the basis and foundation of managing society. In view of their relative permanence and immunity from regular changes, these laws are general and limited; thus, the constitution of .every country consists of some basic and important articles

As such, in the constitution there is no room for detailed and specific laws which cover extensive and diverse needs, and are subject to amendment with the emergence of new circumstances. The Constitution is general and permanent in nature and detailed laws are not included in it except those detailed and limited laws which, on account of .their importance and special status, give stability to it

Laws ratified by parliament .۲

The second type refers to the laws ratified in the Majlis or parliament. Since some countries have another house of legislation called senate or any other term, in addition to parliament, the laws ratified by the said house of legislation are also included in this type of laws. In our country, apart from the Islamic Consultative Assembly (Majlis) which passes bills needed to administer the country, the Council of Guardians, which is similar more or less to the Senate in other countries and to a constitutional court and consists of a group of jurists and legal experts, conforms the bills ratified by the Islamic Consultative Assembly with the Constitution and

religious law. In case of inconsistency with the Constitution and the religious law, it .refers these ratified bills back to the Majlis for review

Laws ratified by cabinet .۳

In addition to the laws ratified by parliament, in every country there are binding rules and regulations ratified by other organs, for example, the executive orders issued by the cabinet (executive branch). The constitution has rested authority to the cabinet to ratify laws in specific cases. Similarly, in certain cases the president can also personally take decisions. These executive orders and presidential decrees need not be submitted to parliament for ratification as they are automatically deemed legally binding. Also, bylaws and circulars approved by concerned authorities and officially communicated to offices and executive offices are also called laws and the .government is bound to implement them

Thus, in our country as in some other countries there are three types of laws: (۱) constitutional, (۲) legislative; laws ratified by the Islamic Consultative Assembly (Majlis) or parliament, and (۳) executive orders, presidential decrees, bylaws and .circulars approved by authorities legally authorized to do so

At no time and nowhere in the world are these laws and bylaws ratified all at once; in view of changing circumstances, statutory laws and executive orders are amended and reviewed. Today, circumstances may require the Islamic Consultative Assembly to enact a law, and tomorrow circumstances may change and the said law might be amended and reviewed. In this manner, executive orders have to be amended and reviewed with change of circumstances. Also, when

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a new president assumes office, it is his prerogative to amend or annul previous .executive orders

Of course, those whose primary concern is the interest of society try their best to codify orders with utmost care to ensure that they are devoid of all possible errors. Naturally, when we say that the laws must be Islamic, it does not mean that all laws ranging from the Constitution to the statutory laws and executive orders must be .explicitly derived from the Qur'an

Meaning of Islamic nature of laws

In explaining the meaning of the Islamic nature of laws and orders, it is important to pay attention to the process of enacting common laws. For example, in codifying and approving bylaws and orders the cabinet or executive power must act within the perimeter determined for it by the Islamic Consultative Assembly and not go beyond it. In other words, the extent of the executive power's prerogatives has been stipulated by the Constitution and the Majlis's statutory laws, and the executive .orders should be within this framework

These orders should manifest the generalities reflected in the Constitution and the laws ratified by the Majlis. Thus, initially, generalities are described in the Constitution and statutory laws whose meanings the cabinet or the concerned authority in certain cases has to interpret within the framework of executive orders. The cabinet cannot act unconditionally on its own without any frame of reference. In fact, its executive orders must be within the framework of the Constitution and laws ratified by the .Majlis

The laws

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ratified by the Majlis, in turn, must be approved and endorsed by the Council of Guardians. That is, the Majlis must also act within the framework of the Constitution and in this way, its ratified laws will be considered credible, enjoying executive guarantee. Therefore, the credibility of executive orders and their being binding depend on their conformity with the Majlis's statutory laws and the credibility of statutory laws means that they are within the framework of the conditional law of the .country

The credibility of the Constitution of the Islamic system is based on its consistency with the legislative will of God the Exalted. As such, the entire laws and decrees have a linear relationship and they are credible, provided that this hierarchy is observed in such a manner that it ends up in Islam and the legislative will of God. It is not in the sense that all the executive orders, circulars and statutory laws can be explicitly found .in the Qur'an and the Sunnah

Since God delegated certain prerogatives to the Holy Prophet (s) to promulgate specific laws and decrees in certain cases, these laws and decrees are credible and binding because they are based on the permission and will of God. It is obligatory to obey and act upon them on account of the decree of God on the necessity of obeying and following him. Under the aegis of this decree of God, the laws and orders promulgated by the Messenger of Allah (s) are credible and, at

the same time, it is obligatory on others to obey and act upon them; otherwise, merely to obey the orders of the Messenger of Allah (s) without divine sanction is not .obligatory

So, the laws which God, the Exalted, has directly enacted and explicitly mentioned in the Qur'an occupy the foremost degree and are intrinsically credible. The laws enacted by the Holy Prophet (s) in certain cases by God's leave occupy the next degree and their credibility is equal to that of God's command. Similarly, the credibility of the laws which the infallible Imam ('a) enacts and the orders he gives emanate from the decree of God because God and the Prophet (s) consider it obligatory to obey .the Imam

Now, assuming that we were living in an Islamic territory under the reign of the Commander of the Faithful ('a), we would have considered it incumbent upon us to obey him. If the Imam ('a) appointed a person like Malik al-Ashtar as the governor in our region saying, "Act upon his orders and do not defy them, for whoever obeys him actually obeys me," the mere orders of Malik al-Ashtar would not be binding for the people because he was like other people, but obedience to him would have been obligatory and his orders binding because he was designated as governor by the infallible Imam ('a) who, in turn, had been designated by God through the Prophet (s), .and to obey him would be wajib

However, laws and orders issued by a

governor, designated by an infallible Imam, are considered laws of a third degree. As an analogy, the governor is like an appointed official whom the Islamic Consultative Assembly has granted powers on the basis of which he has authority to issue circulars and instructions, and on account of those delegated powers, his orders are binding. Similarly, the Majlis has acquired its credibility from the Constitution and its statutory .laws acquire credibility under the auspices of the Constitution

The credibility of the constitution in other countries emanates from the will of the people. But we believe in a higher station and reference with respect to the Constitution. We believe that the credibility of the constitution should emanate from the will of God, and the Prophet (s), an infallible Imam ('a) or any person like Malik al-Ashtar, designated by one of the infallible Imams ('a), has to endorse it. Therefore, the credibility of law should emanate from the words of God, the Prophet (s), an infallible Imam ('a), and then any person designated by an infallible Imam. This is the .logic and theory of Islam

In the time of occultation [ghaybah] of the infallible Imam, since the wali al-faqih has been chosen through a general designation by the infallible Imam, his wilayah is endorsed by the Imam and acquired credibility, thus, his approval is the source of credibility of the constitution; otherwise, the constitution by itself is questionable. It is debatable as to where its credibility emanates from and who has the right

to amend it. On what basis does a minority that has not voted for a certain law abide by it? And there are many other questions. However, when we say that this law has been declared credible by one formally designated by the infallible Imam, there is no .room for any more questions

Process of legislation in the Islamic government

It is clear in the theory of Islamic government that the original credibility of law comes from God, and the words of anyone, like the Prophet (s), who is credited by God, become binding. In turn, the words of anyone who is designated by the Prophet (s), or

the Commander of the Faithful ('a), are equally binding. Similarly, the laws and decrees issued by anyone who is designated by the infallible Imam ('a) through a general or specific appointment shall be Islamic and sacred because they have been .approved by God

Of course, as we have said, in the Islamic government this approval may take different intervals. The credibility of approval of the wali al-faqih emanates from the approval of and endorsement by the infallible Imam ('a) and the credibility of decrees and approval of the infallible Imam, in turn, emanates from the approval of and endorsement by the Prophet (s). Finally, credibility of the Prophet's approval is :confirmed through an explicit text [nass] of the Qur'an where God says

(يَا أَيُّهَا الَّذِينَ آمَنُوا أَطِيعُوا اللّهَ وَأَطِيعُوا الرَّسُولَ وَأُوْلِى الأَمْرِ مِنكُمْ...)

O you who have faith! Obey Allah and obey the Apostle and those vested with" (authority among you..."(١

and

.Surah an-Nisa' ۴:۵۹ -١

:in another verse

(النَّبِىُّ أَوْلَى بِالْمُؤْمِنِينَ مِنْ أَنفُسِهِمْ...)

(The Prophet is closer to the faithful than their own souls...."(١"

Thus, the aforementioned link has a perfectly logical foundation for the members of an Islamic society and those who believe in the truthfulness of God, the Prophet (s) and the infallible Imams ('a). As we have expounded earlier, we have to talk on the basis of our audience's convictions and beliefs and through their language. For this reason, if a person does not believe in God and in the truthfulness of the Messenger of Allah (s), or is doubtful of the infallible Imam ('a), we need to discuss this issue in a

.different way

Initially, we have to deal with the fundamental and essential principles of Islam, and then after proving them, tackle other subjects, including political and administrative issues, on the basis of those principles. Of course, this form of legislation, or the other .usual forms can also be examined on the basis of their value for the benefit of society

Legal status delegated in the Islamic government

In the Islamic political theory, besides the fact that all principles of law must be enacted by God, all laws and orders be approved by Him, the Messenger of Allah (s), an infallible Imam, or his general or specific successor, the implementer of the law also has to be designated by God to acquire credibility through this system of guardianship. (The judicial organ also has an executive function; it must be regarded a righteous reference authority in cases of disputes and differences

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۱- ۳۳:۶ Surah al-Ahzab.

and check the law prior to its implementation. Therefore, an independent and special (.status has been given to it

At the time when the Prophet (s) or an infallible Imam was present, he had to personally hold the reigns of government or designate someone to implement the law; for example, Hadrat 'Ali ('a) appointed Malik al-Ashtar as the governor of Egypt in order to implement the law there. However, in this period of ghaybah when the people have no access to the infallible Imam ('a), the responsibility of implementing the law lies on the shoulders of the one who has been appointed by the infallible Imam through a general designation, and this will lead us to the theory of wilayah al-.faqih about which we will discuss later, God willing

It should now be clear that in Islamic political theory and administrative structure, just as the law should be linked to God, the implementer of the law should also be linked to .God and be appointed by God either through a general or specific designation

The judicial organ should be equally linked to God and the judge should be appointed by God either through direct, or indirect and general designation. In either case, if the judge has no link whatsoever to God, his decree shall have no credit at all. The Holy Qur'an has pointed out God's direct designation of Hadrat Dawud (David) ('a) to judge :among men

(يَا دَاوُودُ إِنَّا جَعَلْنَاکَ خَلِيفَةً فِي الْأَرْضِ فَاحْكُم بَيْنَ النَّاسِ بِالْحَقِّ...)

O David! Indeed We have made"

p: ١٢٨

(you a vicegerent on the earth. So judge between the people with justice...."(١

:And regarding the Prophet of Islam (s), it says

(إِنَّا أَنزَلْنَا إِلَيْکَ الْكِتَابَ بِالْحَقِّ لِتَحْكُمَ بَيْنَ النَّاسِ بِمَا أَرَاکَ اللَّهُ)

Indeed We have sent down to you the Book with the truth, so that you may judge" (between the people by what Allah has shown you." (٢

:It also states

(فَلاَ وَرَبِّکَ لاَ يُؤْمِنُونَ حَتَّىَ يُحَكِّمُوکَ فِيمَا شَجَرَ بَيْنَهُمْ...)

But no, by your Lord! They will not believe until they make you a judge in their" (disputes."(٣

In sum, in the Islamic political theory, sovereignty, legislation and the administration of society in all its dimensions and aspects must emanate from the legislative will of .God

Session ٩: An Examination of the Status of Laws in the Religious System

Principles of Islamic political theory

point

In relation to philosophy and the Islamic political theory, it must be borne in mind that there are some people who accept all its principles, some who acknowledge some of them, and, some who accept none of them. Nonetheless, in a bid to elucidate and establish this theory, it is imperative to explain these principles. Since some of these principles are self-explanatory, we shall mention and explain them briefly, and only .explain other principles which require more space for discussion and examination

Law .۱

point

One of the principles and presumptions of the discussion is society's need for law. As it was said earlier, another principle in the Islamic political theory is that law must be sanctioned by God. Its implementer must also have the permission of God. To say that law must be divine is that God Himself enacts

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.Surah Ṣad ۳۸:۲۶ -۱
.Surah an-Nisa' ۴:۱۰۵ -۲
.Surah an-Nisa' ۴:۶۵ -۳

the law and reveals it in the Qur'an, or the Prophet (s) or an infallible Imam ('a) is given the authority to enact the law, or those who are vested with authority by the Prophet .or an infallible Imam ('a) enact different orders in diverse circumstances

:Therefore, we shall have three types of divine law

۱. The law which God Himself has enacted; in which the Prophet (s) or any infallible ;Imam ('a) does not have any role

۲. The law which the Prophet (s) or an infallible Imam ('a) has enacted by the authority ;vested in him by God

۳. The variable orders which certain individuals enact with the permission of an

infallible Imam ('a) and will be binding for the Islamic society because their source can .finally be traced to the will of God

Thus, God Himself directly enacts the law and His decrees are mentioned in the text of the Qur'an. However, with respect to the implementation of the law, God is not the agent or implementer. The implementer must be the one who is present in society .and can be seen by the people, bids and forbids, and implements the laws

It refers first and foremost to the Prophet (s) or an infallible Imam ('a), and at the second level, to the person who is granted executive authority by the Prophet (s) or an infallible Imam ('a); i.e. those who at the time of the Prophet (s) or in the presence of an infallible Imam ('a) were sent as governors

p: ۱۳۰

and rulers to Islamic territories and provinces to implement those laws. During the period of ghaybah, the fuqaha, who are appointed through general designation, are .responsible for implementing the laws

What has been mentioned so far broadly deals with the macrocosm of the Islamic government viz. legislation and implementation. The judicial organ in reality is part of the executive body and because of its special importance it enjoys an independent .status

Status of natural laws and statutory laws

One of the principles and presumptions of our discussion is the need of codifying law for society. The second principle is, according to our view, the binding law is that which is directly or indirectly enacted by God. Those opposing this view say that society is not in need of law whether it is enacted by God or anybody else. This theory has no proponent today because nobody can deny this need of society. Nowadays, even in a village where only a few people live, the existence of laws and orders to be followed .by people is regarded imperative

In the past, however, when living conditions were simple, some believed that they

were not in need of statutory laws. According to them, the intellect alone could discern a set of natural laws by knowing the natural law, and there was no need of special people to enact laws. In the past, the theory of natural right and natural law was initially presented to human societies in such a way that if they were asked, “Which ”?law should we abide by

p: ١٣١

they would answer, “Look at your self or look at the universe to learn which law is prevailing, and the same law will prevail in society,” proving that even the theory of .natural law has clearly accepted the principle of the need for law

No thinker has ever claimed that mankind is not in need of any law, even natural laws. The bone of contention among philosophers is: which is sufficient—rational, natural, or divine law? That is, are laws which all people can discern by their intellect sufficient ?for society? Or, do we also need specific statutory laws

As we have said, if ever it was imagined in the past that natural laws, rational laws, or ‘rational independents’ [mustaqillat-e ‘aqliyyeh] were sufficient to meet the needs of society, today the said assumption is unacceptable. Neither is there any point of raising and examining it. Nowadays, by just looking around, every person realizes that he needs hundreds of social and international laws in his complex domestic, external .and international situation

Among social and domestic laws are laws related to traffic and transportation. If there are no traffic laws what will be the state of transportation and traffic in every city and town? If the speed of a vehicle and its right of way (whether left or right) and all the other traffic and driving rules are not determined, what will happen? In which part of the world are a group of people leading a safe and sound life in spite of

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?non-observance of these laws

It is true that driving rules are not uniformly codified in all countries. In countries like

Britain and Japan the driving seat is on the right side while driving on the left side of the road, while in all other countries including Iran, it is the opposite—but driving rules are codified anyway and the drivers are aware of the rules, knowing on which side of the road to drive. The above example is among the cases that shows the indispensability of law in society. Certainly, this necessity can also be felt in other .issues such as family and international law

One of the instances which show the exigency of the enactment of international laws is the issue related to the Caspian Sea, which is a source of dispute on the exploration of its natural resources among littoral states. It cannot be accepted that every state can exploit the Caspian oil, gas and other resources without any law. In fact, there has to be a sort of regime that stipulates the extent of exploitation of Caspian air, sea and underground resources by every littoral state. The problems existing among the littoral states on account of the absence of a governing regime have paved the way .for the need to enact laws and rules for the just division of resources

So, the imperative of enacting laws and rules in the light of human needs is being felt. For example, there had been no conventions, agreements and laws on the

seas, air space, deserts and others until recently, because mankind was not in need of them yet. However, as a result of more interaction among people, groups, nations, .and countries, the need for such laws was felt

Since law defines the extent of rights of every person and society, the Noble Qur'an has specially mentioned the need of law in social life. It should be noted that existence if law in a general sense is not confined to the social life. In fact, if a person wants to .lead a humane life and achieve excellence in it, he needs law

Moral laws are sufficient for personal life but social, national, international and political issues need laws to ensure justice between conflicting groups. For example, if a state takes more than its share of the Caspian, war and conflict will ensue, so the need to codify socio-political laws becomes clear. The collective need of law is thus

.axiomatic

Every intelligent, sane person knows that in the absence of law, social life, human comfort, and human prosperity are endangered. In view of the instances we have mentioned, it is evident that natural law is not sufficient. We are in need of statutory laws because reason ['aql] enjoins the observance of justice and fairness, but, to .determine an approach that will guarantee justice and fairness we need another law

For example, reason dictates that the Caspian natural resources should be justly divided among the littoral states. The question will then be raised: How should one 'justly

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divide' them? Does 'just division' mean that a country with the largest area, littoral area, or most littoral residents along the Caspian have the lion's share? The reply to such questions should be given by a legal reference authority. In most cases, the .existence of a legislator is necessary. Now, let us see who should be the legislator

Laws possessing divine and religious source .۲

The claim of Islam is that God has enacted laws and revealed them to the Prophet (s). So, after accepting the first principle which is the need for law, the second principle is to accept religion as the source of legislation. At this stage, there might be people in a Muslim country who do not accept Islam. In the same manner, there might be a .person in a non-Muslim country who accepts the same

A person who doubts the existence of God also does not accept His religion and law. In the first stage, it can not be proved for him that the law should be enacted by God and basically for a person who denies God, the idea that "The law should be divine" is unacceptable. We have to first prove the existence of God through scholastic and philosophical arguments and then the existence of the Prophet ('a) and true religion theologically. Finally, we need to prove that a law which God directly or indirectly .enacts becomes binding on the believer

We have stated earlier that a person might believe in God and the essence of religion and apostleship [nabuwwah], but might

not accept that social law has to be enacted by God. According to him, man has to engage in supplication, worship and litany with God and go to the mosque or any house of worship, but his social life has nothing to do with God for which He must himself enact a law. Such a belief is unacceptable in Islam. A person cannot claim that he accepts the basis of religion, viz. the Qur'an, sayings of the Prophet (s), authentic narrations, and the conduct of the Prophet (s) and the Imams ('a), but not the social laws of Islam.

Need to acknowledge essentials of religion

Any set of ideas and beliefs has integral elements which are technically called "essentials" [dharuriyyat]. Anyone who is familiar with this set—whether he accepts it or not—knows that it consists of parts. In other words, hundreds of parts may be added to or taken from a set but its basic parts remain in order to keep it distinct from other sets. As such, whoever accepts religion as a set should accept it as having permanent, definite and fixed parts which distinguish it from other sets.

Regrettably, some people say that they accept Islam but do not accept it has a fixed principle, and regard all its parts as having diverse and different interpretations. They say that they do not oppose Islam but its acceptance does not require that everybody should pray. They believe that prayer exists and some are used to performing it, but every Muslim does not necessarily have to

pray and regard it a permanent part of Islam!

Regarding fasting and other social decrees, they believe that the Prophet (s), Imams ('a) and other pioneering Muslims used to practice them. They do not accept, however, that the existence of Islam depends on them or that without them Islam will

cease to exist. At this point, this question comes to the fore: If that is the case, what is Islam founded upon without which it will not exist? Do you accept that monotheism ?[tawhid] is a principle of Islam, and that whoever does not believe in it is not a Muslim

In reply, they say that this interpretation, based on their understanding of Islam, is correct. Another person may have a different interpretation of Islam and we cannot say that only our understanding of Islam is correct! Another person may have such an understanding of Islam that there are two or a thousand gods, or that in Islam there is no god at all, and we cannot cite a proof to prove that our understanding of Islam is more correct! Even if we claim that our understanding of Islam is correct, we cannot say that others have no right to interpret Islam. At most, it can be said that "In my opinion, my understanding of Islam is better" and this is also true of the opinion of .others

Undoubtedly, such people have no intention but to deceive and beguile others; for, in no science or field of knowledge can the parts of

two identical sets be distinguished from each other. Two sets are distinguishable from each other when the constituent parts of one set are different from that of another, or at least, some parts cannot be found in the other set. If all parts of a set can be replaced by that of another set—for example, element A in this set can be replaced by element A of that set; likewise, element B in this set can be replaced by element B of .that set, etc.—the two sets cannot be regarded as distinct from each other

If a set called "Islam" is recognized, it should have some distinctive features in order to distinguish it from other religions. That is, there should be fixed principles in it on which Islam is founded. Now, if we believe in such principles as tawhid, nabuwwah and ma'ad, and the essence of prayer and worship ['ibadah], but at the same time, regard all of them changeable and subject to diverse interpretations, we cannot prove any fixed element and claim that it is one of the principles of Islam. Therefore, we have to say that a specific set called Islam does not exist! In this case, what are we ?defending

How can we invite others to Islam if we do not teach them how to become a Muslim and act upon Islam in whatever way or form they understand it? If you arrive at the conclusion that one should pray, you have to pray and if you

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arrive at the opposite conclusion, act accordingly. You are free to practice Islam according to your understanding! What is the difference between this kind of understanding of Islam and Christianity, or any other religion? What is the point in ?inviting people to Islam

If everyone is supposed to practice Islam according to his or her own understanding and there is no definitive and permanent principle and axis, our invitation to Islam is actually only lip service. From this perspective, it makes no difference if we invite !people to Islam, Christianity, or even deny religion

Islam's fixed principles and precepts

It is sheer deception and hypocrisy to say that one accepts Islam but believes that there is no specific interpretation of Islam and that all its principles are subject to change and various interpretations. As such, Islam may be interpreted the way Christianity is interpreted and a Muslim cannot be distinguished from a Christian. So, !we cannot say so-and-so is a Muslim, or not a Muslim

Every building is constituted of elements such as foundations, wall and roof, and can be distinguished from a ruined structure. It cannot be claimed that building has no constitutive elements. Neither can it be said that a building will remain a building with or without foundations, wall and roof. It will remain a building whether it is constructed in the ground, air or sea, and it has neither specification nor fixed elements. Similarly, assuming that Islam has no fixed and fundamental principles, we cannot say that a certain set

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.is Islam while another set is not Islam

Therefore, once a person accepts Islam, he ought to accept an array of specific elements as integral parts of the set. Of course, a set may also have suspicious and contingent parts, or an open-ended one to which parts may be added or subtracted. .It is nonsense to say that a set has no specific parts, and yet remains a distinct set

Friends and foes alike know the fundamental and essential elements of Islam. Apart from tawhid, nabuwwah and ma'ad, Islam has other fundamental elements which are known to all including those who deny God. For instance, ritual prayer and Hajj are recognized as basic elements of Islam. All people of the world know that during a certain period Muslims perform Hajj pilgrimage. Now, could somebody say that the ."Islam" he knows has no Hajj? Everyone knows that there are ritual prayers in Islam

Now, if someone says that he accepts Islam but, according to his understanding of the religion, ritual prayer is not an essential part of it, has he really understood Islam, or is he a deceiver who falsely introduces himself as a Muslim so as not to be deprived of the benefits of being a Muslim or be isolated from Islamic society? It is clear that Hajj, prayer and fasting are integral parts of this set and the essentials of the religion .accepted by all Muslims

If a person claims to know Islam, can he say that Islam has no penal law

to prevent theft while the Qur'an explicitly affirms it in the verse, "As for the thief, man and woman"?(۱) The same is true in the case of others which are affirmed by explicit texts [nass] of the Qur'an. The essentials of Islam are fixed and there is no more need for us to sit together and prove them one by one. As such, if it is proved that the basis of Islam is the Qur'an, truly revealed by God, we have to accept that whatever the Qur'an states is right and that it encompasses an array of fixed, essential and definite .elements

Of course, some verses may have different interpretations but the mere existence of two different interpretations of a verse does not suggest that no fixed and definite element can be inferred and deduced from the Qur'an, and that anyone can interpret

.it in whatever way he likes

Once a person who is acquainted with the Arabic language refers to the Qur'an, he will find therein a series of specific themes which have nothing to do with different human interpretations and are not dependent on presumptions, mindsets and laws that we have learned from science. For example, regarding the verse on prayer or the amputation of the thief's hand, a person who lived at the time of the Aristotelian "four elements" and Ptolemaic "seven spheres" would have interpreted it just as the one who is living in this age of Einstein's law of relativity. It cannot be said that

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۱- Surah al-Ma'idah ۵:۳۸.

since Einstein's law of relativity is the order of the day, the meaning of the verse has .also changed

There may be a verse whose words are related to certain sciences due to the lexical development and other factors, but there are some subjects that their understanding .has no thing to do with different sciences

Fixed essential laws and decisive concepts of the Qur'an

Both Muslims and non-Muslims know that Islam has a set of fixed essential laws. A set of definite concepts can be deduced from the Qur'an and understood by a person, whether he believes in the Qur'an or not. Understanding those concepts depends on one's familiarity with the Arabic language and not on his being a Muslim. However, not all subjects of the Qur'an are of this kind. Some Qur'anic verses are such that .different meanings can be inferred

Another salient feature of the Qur'an is that it has many levels of meaning; explicit [zahir], implicit [batin] and esoteric [batin al- batini], but our focus is on the essentials of religion, on elements that never change and in spite of the difference in approach and interpretation, their meanings remain fixed, definite and unchangeable. For example, the passage "And maintain the prayer"(۱) indicates the performance of

prayer as wajib while this passage points to fasting as wajib: “Prescribed for you is fasting.”(۲)

Regardless of the impending multiplicity of scientific theories and scientific investigations, the import of those verses will never change.

Whenever we talk about the essentials of religion, we regard them fixed, definite and unchangeable because they

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۱- Surah al-Baqarah ۲:۴۳.
۲- Surah al-Baqarah ۲:۱۸۳.

are among the most fundamental and decisive sources of Islam. That is, we consider the Qur’an and the Sunnah as authoritative with clear evidence. Those who deny the essentials of religion, saying that one cannot have a definite and absolute understanding of Islam are ignorant, erroneous, or egocentric, having no faith in Islam and only duping the Muslims.

Undoubtedly, one of the essentials and fundamental principles in Islamic political theory is that the law should be enacted by God. Those who deny divine law actually deny one of the essentials of religion. Just as the obligatory nature of prayer can be deduced from the Qur’an, the decree on the adulterer and the adulteress can also be discerned.

With the same clarity that the ruling about prayer and fasting can be confirmed in the Qur’an, obedience to the Prophet (s) is also made obligatory, and in the religious law of Islam, the station of the Prophet (s) is recognized as a station that requires absolute obedience [muftarad’ut -ta‘ah]. In this regard, God says:

(يَا أَيُّهَا الَّذِينَ آمَنُوا أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ وَأُوْلِي الأَمْرِ مِنكُمْ)

“O you who have faith! Obey Allah and obey the Apostle and those vested with authority among you.”(۱)

:God also says, thus

(وَمَا آتَاكُمُ الرَّسُولُ فَخُذُوهُ وَمَا نَهَاكُمْ عَنْهُ فَانتَهُوا...)

"Take whatever the Apostle gives you, and relinquish whatever he forbids you..."(۲)

Islam cannot be accepted without accepting the purport of verses that mention the essential features of Islam, or by acting upon them selectively. Such a superficial acceptance of Islam is

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۱- Surah an-Nisa' ۴:۵۹.

۲- Surah al-Hashr ۵۹:۷.

:the practice of those who are referred to by God in this verse

(وَيَقُولُونَ نُؤْمِنُ بِبَعْضٍ وَنَكْفُرُ بِبَعْضٍ)

"And they say, 'We believe in some and disbelieve in some'."(۱)

:Thereafter, regarding such people, God says

(أُوْلَئِكَ هُمُ الْكَافِرُونَ حَقًّا)

"It is they who are truly faithless."(۲)

Thus, whoever has faith in Islam should accept the entire set of Islamic laws and decrees and believe that the essentials of Islam are independent of scientific developments or new scientific theories. As such, whoever regards the verse related to prayer as true also regards as such the verse related to the ruling on theft. In the Qur'an one can find allegorical and contingent cases as variable parts of Islam as well, but one must believe that the Qur'an and Islam must have fixed and definite parts .that make it distinct from other religions

Removing skepticism on the existence of contradictory interpretations of Islam

In Islam there are thousands of definite decrees about which all the Islamic schools of thought [madhahib] have a consensus of opinion. Many of the differences between the Sunni and the Shi'ah are related to secondary matters that constitute an insignificant part of Islamic laws. There is no difference between the two schools in .[most subjects of jurisprudence [fiqh

Similarly, in the Shi'ah school of thought the difference among the religious edicts of jurists [fuqaha] on some laws does not mean difference of opinion on all cases. In the same vein, the difference of prescription of two doctors for the treatment of a specific ailment does not imply that there are no fixed and

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۱- ۴:۱۵۰ Surah an-Nisa'.

۲- ۴:۱۵۰-۱۵۱ Surah an-Nisa'.

.definite elements in the science of medicine

Therefore, in Islam we have an array of certainties [yaqiniyyat] in which there is neither dispute nor doubt. The existence of difference in some cases should not make us skeptical about the definite principles, and set Islam aside. Regrettably, nowadays, whenever Islam is talked about, the sick-hearted who, in the language of the Qur'an are "those in whose hearts is deviance,"(۱) say: "Which Islam? Islam of the Shi'ah or ?Sunni? Islam of the fuqaha or the university-educated intellectuals

Notwithstanding the existence of one set of unanimously agreed upon moral precepts, personal decrees and social rules in matters of beliefs and fixed principles and commercial and international laws, why do they focus on the disputable and debatable issues? Whenever it is said that the university must be Islamic, why do "?these sick-hearted and crooked-minded ask, "Which Islam

In reply to them, it is the same Islam which says that God is One; it is the same Islam which enjoins prayer; it is the same Islam which forbids the violation of others' rights and promotes the implementation of justice. Are these points disputable among

Muslims? Implement in the university the same indisputable tenets about which the Sunni and Shi‘ah have consensus of opinion, and you will earn the utmost pleasure of all. It is natural that whenever they do not want to follow the dictates of Islam, they find excuses such as “Who says that the Islam of the fuqaha should be implemented and not

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.Surah Al ‘Imran ۳:۷ -۱

”?the Islam of the intellectuals

Questioning Islam’s capability of meeting all human needs

point

After proving that Islam has social laws and decrees, certain skeptical questions are raised: Is it rationally possible for all human needs in different eras to be contained in a single set? Can Islam whose sources are the Qur’an and authentic traditions, encompass all the elements needed by mankind throughout the different epochs and periods? The above questions have both theoretical and practical aspects and can be examined in both ways. Of course, it must be acknowledged that these questions are worthy of consideration. At the outset, it seems that answering them is not easy. However, in view of the explanations we have presented before, replying is not that .difficult

Examining the theoretical dimension of questions .۱

The reply to the theoretical dimension of the question, “How can a set of laws be responsive to all human needs in all aspects of life?” is this: Certainly, human beings cannot enact a set of perfect laws for mankind in different epochs and periods because on account of their defective knowledge and intellectual limitation, they cannot examine all the facets and dimensions of human life and take into account an .appropriate law for every case

However, the One who has created human beings, knows "what was" [ma kana] and "what will be" [ma yakun], to whom yesterday, today and tomorrow are the same, is Omniscient of thousands of years before and after, it is possible to enact such a code of laws. Thus, it cannot be said that it is impossible to enact a code

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of perfect laws for all humanity throughout history that encompasses all aspects of human life, because the One who has full knowledge of the past and future and is well .informed of all dimensions of man's existence throughout history can do so

Examining the practical dimension of questions .۲

The practical dimension of the questions is this: "How can the essential elements attributed to God as mentioned in the Qur'an and authentic traditions—given their limited magnitude—meet all human needs throughout these epochs and periods?" The reply is this: It is impossible for us to present a specific law for every case in which all particular conditions of time and space are perfectly observed. This is because .legal cases do not need limited laws. They favor laws of a general nature

We cannot determine all legal cases as special and definite cases. It can thus be said: "Innumerable cases do not have innumerable categories." Every set of these cases can have a general heading and the said heading can have a specific decree. So, "The ".general decree is fixed and limited but its cases are innumerable and varied

A case at a particular time may consist of a decree and assume a different form in a different time and condition and the ruling for it may change. So, issues and changes that take place in them are diverse and numerous, but the limited general headings are fixed. It is true that the aspects of human life are vast and regularly increasing on a daily basis. With the advancement

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and progress of human civilization and social living, new issues and concerns emerge all of which are in need of specific laws which address all needs. Yet, all these variable

laws can have specific criteria. With the permission of the One who has sent down the general laws and taught their general criteria, those who recognize these criteria in .fixed expressions can enact specific laws on specific cases

By saying that the laws of Islam must be implemented in society, we do not only mean laws directly revealed by God in the Qur'an because these laws in the Qur'an are mentioned in general and absolute terms. What we mean is that the Prophet (s), the infallible Imams ('a) and those who are acquainted with the spirit of these laws, are well-informed of the criteria and can distinguish the general laws from particular cases and determine the manifestations, ways of application and rulings of these .general divine laws

Session ۱۰: Law and the Difference in Outlook and Origin

point

As explained in the last session, the above theory is based on an array of statutory principles. The first principle is the exigency of law for society while the second principle is that the law must be divine. After these two stages comes the issue of the implementer of law. Proving this theory to Muslims who accept those principles and believe in the Islamic fundamentals is not difficult. However, in dealing with those who reject those principles and the Islamic fundamentals, or those who wish to delve into the issue in order to

be able to reply to the opponents, each of the principles must be explained in more .detail

Exigency of discussing law at the present stage

In this age we are faced with various theories in the context of political issues, so we must engage in theoretical discussions on government and politics so as to present the Islamic view vis-à-vis opposing theories, considering the relentless efforts of the Global Arrogance in besmirching the Islamic viewpoint on government. In addition, we

are in a revolutionary period and living at a time when an Islamic system has been established and therefore, for elucidating viewpoints at Islamic, we should use logical .and scientific means

In view of the demand of rule of law by the country's honorable officials, the people must pay attention to the issue of law and its foundations, credibility and extent, and know why and to what extent we should abide by the law. These factors augment the necessity of addressing political and governmental questions in Islam. As such, the .discussion must be carried out in a scientific and academic manner

Two contradictory views determining domain of laws

Today's human society is dealing with a variety and multitude of laws. If we take a look at books written about law fifty years ago, we will realize that the increase in volume is approximately geometrical in progression. Compared to the laws existing today, the number of laws existing five decades ago was insignificant. In addition, especially because of office circulars, executive orders and regulations, the number of laws increases everyday. Whenever society feels the need for new rules

the concerned authorities try their best to make these laws and thereafter, .implement them

Yet, in academic circles around the world this question is raised in a very serious fashion: Should only the least necessary social laws be codified, or, should social laws be all-encompassing and regulate all facets of human affairs? This question is addressed in political philosophy and legal philosophy at the highest level of academic .forums. In this connection, two conflicting approaches face each other

On one hand, a group is of the opinion that people must be free in their activities and that the legislative organ should make minimum laws and not limit the activities of people beyond what is necessary. This is liberalism, which believes that every individual in society be allowed to behave the way he or she likes. Regulations must be formulated in order to restrain people's activities only as much as is necessary and

.not beyond it

The legislative organ and the government should not regularly make laws and persistently interfere in the activities and lives of people. Opposed to this is the holistic outlook (holism) which holds that everything must be encompassed by law and all human actions—social, political, economic, etc.—must have specific and definite laws. Also, the government must strive to implement these laws. The above question is not a simple and casual question. In fact, it is a very delicate one, dealing with the scope and limit of law—the kind of laws that should be made, and quantitatively, the

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.extent and domain of the lives of people they should encompass

Status of law in democratic systems

The question about the extent and domain of laws is related to different schools of thought on the philosophy of legislation which offer different theories and views on the right of legislation and the determination of its criteria. A well known perspective maintains that those who have the right of legislation for the people are the ones who .are chosen by the people themselves to do so

Thus, in reality, the right of legislation belongs to the people themselves and they are the ones who enact laws for themselves. The political system which is formed on the ."basis of this perspective is called "democratic

After the acceptance of the democratic system this question is posed: Would whatever the majority of the elected representatives of the people—i.e. ۵۰٪ plus one —like and agree upon be regarded a binding law? Are there also other rulings needed for legislation, and should certain laws that specify the extent of authority of the representatives in legislation be enacted earlier? The reply is that the constitution determines the scope and right of legislation, rules over statutory laws and judges the .extent and scope of legislation

At this point, another question is raised and that is: various countries have their

respective constitutions which are more or less subject to change. Sometimes, with the change of political system or regime, the constitution is also changed. There are also times when the constituent assembly is convened and amendments to the

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constitution are made. In any case, in view of the changes to be made in the constitution, is there any institution or entity above the constitution which specifies ?the scope of the constitution

That which is above the constitution is the institution of human rights—also called the natural law or the basic rights of men—which rules over the constitution and determines its scope. Members of the constitutional committee cannot reflect .whatever 'they like' in the constitution, let alone make common laws

Basis of credibility of human rights

Again, another question is posed: Who enacts the law which is above and determines the extent and scope of the constitution, and on the basis of which changes can be made in the constitution? Who has codified the "human rights" reflected in the Universal Declaration of Human Rights or mentioned in the books of legal philosophy, and from where does their credibility emanate? The answer given is that according to the international customs, their credibility emanates from the signatures of those who approved the Declaration, and it is binding because it is ratified by all states of the world. It can be asked: Is this Declaration binding for a state that has not approved it? If it is not binding, it follows that no one has the right to condemn those, who have not approved the Declaration and thereby, refuse to act upon it, for "not observing human ."rights

Again, the answer will be given that the rights and laws described in the Declaration are not enacted laws that become

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binding after their enactment and approval. They are rather real laws which can be

discerned by human reason and are binding whether people accept them or not. Of course, at the present time there are numerous people who hold such an opinion, regarding human rights a real and extrinsic fact. An absolute majority of legal and political philosophers believe that the credibility of these laws, conventions, declarations, and charters emanates from the approval of the states' .representatives, and not because they are an extrinsic reality

Finally, this serious objection is raised: What justification do all states have to accept these laws and what is the proof for non-signatories? The root of this objection and question cannot be deracinated in any way. For this reason, this question is addressed in legal philosophy: What is the source of credibility of laws? However, for us who have faith in the religion of Islam, God and the Qur'an, there is a simple answer. Once we say that the laws have been codified based on the decree of God, the case is .closed and there are no more questions

But those who refuse to tread this path and want to describe everything through a contract will finally end up in an impasse because they regard human rights as the source of credibility of every law and the reason behind also needs to be investigated. In addition, why is the Universal Declaration of Human Rights codified in about ۳۰ articles only, and not more or less

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than that? These are questions posed to the crème of legal philosophers and a .convincing answer is yet to be offered by them

Once we say that we are law-abiders, we ought to know where the credibility of law emanates from, and why and to what extent we have to abide by the law. Today, there are many related discussions in speeches, periodicals and newspapers. Some of our educated, especially the university-educated and those who are engaged in studying and teaching social sciences and humanities, particularly the authorities in .legal philosophy and political philosophy are encountering these questions

Thus, in order to improve the cultural level of our society, we have to state the results

of the academic inquiries in a simple and concise manner. If we want to deal with these issues meticulously and elaborately, we have to refer to at least four fields in social sciences or four branches of philosophy, viz. philosophical sociology, legal philosophy, moral philosophy, and political philosophy. And if we want to pursue it, we need to study other philosophies, and of course, epistemology, which is considered the mother of philosophy. It is very useful to point out the achievements in these fields of social science and the relationship existing between them for the educated class and wary people who have been trained in the lap of the Islamic Revolution and .its culture

Real, intrinsic laws and status of man's freewill

It is worth mentioning that the term "law" is a term with two basic meanings. The first meaning of the

term is applicable in the experimental sciences, exact sciences and mathematics. In these sciences, law refers to the actual relationship existing among phenomena. For example, the laws of phenomena specify the metallic point of metal, when water will turn into vapor, at what temperature it will evaporate or under what conditions it will turn into ice. So, freezing point or boiling point exists as a law of nature, and man needs to be acquainted with these laws of chemistry, physics and other experimental .sciences. Evidently, these laws are fixed, persistent and numerous

With the advancement of human knowledge, more laws will be discovered, and with every new discovery in every science, hundreds of questions and answers will be raised. Proportionate to the number of these questions, new laws will be discovered in order to answer them. For this reason, the number of questions increases everyday and mankind is in pursuit of discovering more laws to answer them. In other words, in the universe we are in the domain of a set of innumerable laws: ranging from laws related to the elements, chemical compositions and living creatures to space laws and .others, whose existence is yet to be discovered by scientists

At this point, this question comes to the fore: If, in this universe, we are confined in this narrow and constricted sphere of innumerable laws, what then is the role of our freewill and volition? This question is treated seriously, and as such, in philosophical anthropology it is asked: What

is the truth of man? Is he totally determined or free? Or, does he have conditional and limited freedom? Assuming that his freedom is limited and conditional, what is its extent? Similarly, today, the question of predestination and freewill or tafwid(۱) and .the like are still seriously discussed among philosophers in the world as before

Among them are existentialists who believe that man has unlimited freedom and may do whatever he likes. As Jean-Paul Sartre(۲) used to say, "If I wish, the Vietnam War will come to an end!" That is, man is such a powerful creature that he can put a stop to a bloody war that has taken millions of human lives. Of course, it is an exaggerated claim but the point is that such an outlook which upholds human freewill and unlimited .power exists

Opposed to the existentialists are those who consider human freewill mere illusion, believing that man subsists within the framework of a set of fatalistic laws though he imagines that he has freewill. The last but not least, are the religious beliefs which can be located in between the above- mentioned two, maintaining that man has freewill limited by various laws governing the universe. That is, if we try to draw circles of the set of laws governing the universe, human freewill can be exercised within those .circles and not beyond that

On saying that, we are intrinsically subject to a set of laws, this question spontaneously arises: Do we have the power to

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Tafwid: the belief that after creating all beings, God has left them to administer -۱ their own affairs and follow their own wills. In other words, it is the upholding of

[.freewill [ikhtiyar] vis-à-vis predestination. [Trans

٢ - Jean-Paul Sartre (١٩٠٥-٨٠): French philosopher, dramatist, novelist, political journalist, and leading exponent of existentialism whose writings reflect his vision of the human being as master of his or her own fate, with each life defined by a person's [.actions: "Existence precedes essence." [Trans

break those laws and defy them? Can we make nature subservient to us and limit the extent of laws and live in such a way that the laws of nature do not govern us? The answer is that such an imagination is sheer fancy because manipulation of nature necessitates the discovery of another law of nature itself. For example, if we succeed in the field of medicine in controlling a disease or totally eradicating it, we have to .discover another law of nature and follow it

In reality, we have not succeeded in digressing nature from its course; rather, we .have discovered a law of nature and acted accordingly

Hence, it is impossible to go beyond the domain of intrinsic laws, and in order to live one needs to recognize and benefit from these laws—the same laws God has set in the universe—and to go against them is tantamount to going against man's intrinsic servitude ['ibadat-e takwini]. As we have said earlier, within the circles which constitute the set of intrinsic laws, we can move to a certain extent. Among the diverse scientific and intrinsic laws, there are limited spaces for man's exercise of freewill and the power to choose by means of which he can make use of a law vis-à-.vis another law. These limited spaces constitute the domain of man's freewill

Legislative and divine laws that guarantee man's felicity and perfection

Within the limited extent of freewill and the power to choose, morally speaking, can man behave in whatever way he likes? Or, should he demonstrate a certain deal

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of restraint? Are there any laws in this sphere which are mandatory for man to obey? The answer is that there are also laws in that sphere but not intrinsic laws; rather, legislative and extrinsic laws, or moral laws. In the language of our predecessors who

used to deal with them for thousands of years, they are laws in the realm of practical wisdom ['aql-e 'amali] in contrast to the real laws in the realm of theoretical wisdom .[['aql-e nazari

That is, practical wisdom has to judge anything related to the voluntary actions of man. Undoubtedly, implementing the divine laws upon which it is within the power of man to act, will lead to the attainment of the ultimate aim and goal, viz. the aspired perfection, and deviation from which will result in man's fall, making him baser than :any animal. The Qur'an also confirms the same fate, saying

(لَقَدْ خَلَقْنَا الإِنسَانَ فِی أَحْسَنِ تَقْوِیمٍ ۝ ثُمَّ رَدَدْنَاهُ أَسْفَلَ سَافِلِینَ ۝ إِلَّا الَّذِینَ آمَنُوا وَعَمِلُوا الصَّالِحَاتِ فَلَهُمْ أَجْرٌ غَیْرُ مَمْنُونٍ)

We certainly created man in the best of forms; then We relegated him to the lowest" of low, except those who have faith and do righteous deeds. There will be an (everlasting reward for them."(۱

By using the innumerable talents God has endowed man with, he can attain the pinnacle of divine proximity and nearness to God. On the contrary, by opposing and rising against the divine laws, he can fall to the lowest ebb and be baser than any ,animal. So

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.Surah at-Tin ۹۵:۴-۶ -۱

to obey or defy the legislative, extrinsic and moral laws, are within the freewill of man. If a person accepts and follows these laws, he will attain spiritual and psychological loftiness, tranquility and wellbeing; otherwise, he will fall. It is like health tips and recommendations offered by medical science to us. Observance of them guarantees our wellbeing while heedlessness to them results in ailments and endangers our .health and life

Now, since man is free to observe or not observe these health and medical tips, if he values his health and wants to remain alive and kicking, he has to observe them. On

the other hand, if he is not concerned with his health and it does not matter to him if he gets sick, he should not pay attention to these tips. So, the truth of the matter is that wellbeing is impossible without observance of health tips. Of course, such an affair is not fatalistic in nature because observance or non-observance of health and medical tips is within the control of man. Of his own freewill, he may observe these tips and thus remain healthy, or not observe them and expose himself to danger and .sickness and even death

That which is said about the body is also true about the spirit and soul. Just as the physical body has wellbeing and sickness, so does the soul. The observance of certain spiritual values and laws, guarantees the perfection, tranquility and wellbeing of .man's soul; otherwise, his soul gets sick

:In this regard, God says

(فِی قُلُوبِهِم مَرَضٌ فَزَادَهُمُ اللّهُ مَرَضاً...)

(There is a sickness in their hearts; then Allah increases their sickness..."(۱"

Man, who is always on the verge of falling, sometimes moves so quickly that he loses control of himself, and gets relegated to the lowest of low and plunges into perdition. On the contrary, if he wants to remain sound he has to move carefully and with such self-restraint that he can make a stop whenever he smells danger. There are also real orders, and by obeying the divine laws, man can attain spiritual wellbeing and eternal bliss. Of course, man is free and autonomous; he may not want to attain bliss but .want hell instead. No one can stop him

Intrinsic freedom has endowed him the right to choose. However, if he wants to attain felicity and nearness to God, he has to obey the commands of God. He should not follow his own desires, because following one's carnal desires leads to misguidance :and deviation from the truth

(أَفَرَأَيْتَ مَنِ اتَّخَذَ إِلَٰهَهُ هَوَاهُ وَأَضَلَّهُ اللَّهُ عَلَىٰ عِلْمٍ وَخَتَمَ عَلَىٰ سَمْعِهِ وَقَلْبِهِ وَجَعَلَ عَلَىٰ بَصَرِهِ غِشَاوَةً فَمَن يَهْدِيهِ مِن بَعْدِ اللَّهِ أَفَلَا

(تَذَكَّرُونَ

Have you seen him who has taken his desire to be his god and whom Allah has led“ astray knowingly, and set a seal upon his hearing and his heart, and drawn a blind on his sight? So who will guide him after Allah? Will you not then take admonition?”(۲)

Whoever is subservient to his carnal desires and dictates

۱- Surah al-Baqarah ۲:۱۰.

۲- Surah al-Jathiyah ۴۵:۲۳.

of the heart becomes deaf and blind and cannot discern the truth and reality. Even if he has acquired much learning, a veil will cover his eyes and he will not see the truth. In this context, the story of Bal'am ibn Ba'ur(۱) is an instructive moral lesson for us all. Notwithstanding the gnostic station he acquired and being the most learned of his time, he experienced a fall and a fate about which God said:

(وَاتْلُ عَلَيْهِمْ نَبَأَ الَّذِى آتَيْنَاهُ آيَاتِنَا فَانسَلَخَ مِنْهَا فَأَتْبَعَهُ الشَّيْطَانُ فَكَانَ مِنَ الْغَاوِينَ ... فَمَثَلُهُ كَمَثَلِ الْكَلْبِ إِن تَحْمِلْ عَلَيْهِ يَلْهَثْ أَوْ تَتْرُكْهُ يَلْهَث...)

Relate to them an account of him to whom We gave Our signs, but he cast them off.“ Thereupon Satan pursued him, and he became one of the perverse... So his parable is that of a dog: if you make for it, it lolls out its tongue, and if you let it alone, it lolls out its tongue...”(۲)

In light of the freedom that God has given man, he can experience fall to such an extent. However, if man wants to be blissful, he should observe an array of lows. The divine set of laws cannot be confined to a single domain; rather, they can be divided into different domains and types. As such, we are in need of some types of law in our lives.

Difference between legal and moral laws

That which is known as "law" to us refers to legal laws. The said laws are a set of rules enacted by a credible

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۱- Bal'am ibn Ba'ur refers to the man at the time of Pharaoh who knew the Greatest Name of God [Ism al-A'zam], through which anything and everything sought for is immediately granted by God and it is a very closed secret. Pharaoh urged him to pray that Moses might fall into his clutches. Bal'am agreed and mounted a donkey but the animal would not move. However much he beat the poor donkey, the animal did not stir from its place at all. At last the animal raised its head toward heaven and cried in clear cut words, "Why do you beat me Bal'am? O man, woe unto you! Do you want me to take you to curse an Apostle of God and the faithful ones with him? Yet, Bal'am did not relent and beat the faithful animal to death, consequently causing himself to forget the Holy Name of God whereupon he became an infidel. See Mir Ahmad 'Ali's commentary of Surah al-A'raf ۷:۱۷۵. [Trans.]

۲- Surah al-A'raf ۷:۱۷۵-۱۷۶.

authority, and the so-called executive power (the government or cabinet) guarantees their implementation. In case of necessity, it imposes these laws upon the people by resorting to the use of naked force to prevent any violation. Legal laws in a general sense also include penal laws. In this context, if a person says that the duty of the government is only to recommend the law to the people—to urge them not to steal and violate others' sanctities—, but it cannot punish the violators on the pretext that doing so is contrary to the freedom of man, certainly none will accept his argument.

To say that "Since man is free, if he opposes legal laws no one should punish him" means that the existence or non-existence of legal laws means the same. This is why the raison d'être of legal laws is that there should be a guarantor of their implementation. This is their fundamental difference with moral laws besides other differences. In ethics, for example, it is said: "Keep your pledge and do not breach it." This is a moral injunction.

Now, if a person breaches a trust, he will neither be punished nor imprisoned for committing such an immoral act. But for violating a legal law he will be apprehended and imprisoned. In the case of penal laws, a specific punishment shall be given to him for fraud. There will be a police force to deal with the violators and forcefully implement the laws as far as they are

concerned. The use of force is a requirement of legal laws, the absence of which renders the existence of these laws meaningless. Moral laws, however, are not in need of naked force unless they acquire legal dimension.

In religion there is undoubtedly a set of divine laws pertaining to man’s relationship with God, such as the rulings on ritual prayer, fasting, Hajj, and the like. Such ordinances are mentioned only in religions. Here, the question is: Can religion also have legal laws, or should it only elucidate the relationship between man and God? This is the skeptical question which is widely talked about in universities and periodicals, nowadays.

All of us, whether the university students who are directly confronted with this question or their parents and relatives, should pay heed to this kind of skepticism, because these questions will finally find their way into other strata of society through the educated class and exert influence on our public culture. One day these young students will take the place of their parents, and as influential forces, they will constitute the main sectors of society. Now, if the cultural orientation of this great sector is changed, after one generation the culture of our society will totally change. So, we should be vigilant; we should be aware about the current cultural orientation that is taking form in our society

Difference between Islamic and liberal approach

One of the issues discussed nowadays is that only minimum effort must be made in the enactment of law. This is the liberal approach which

believes that the legislature is not supposed to interfere in the life and affairs of .people because the less the interference, the more society will progress

The above approach has a sociological underpinning based on one of the two viewpoints discussed in sociology. The first viewpoint maintains that laws must be comprehensive and encompass all spheres of human life and that freedom must be at minimum level. The second viewpoint propounds that the individual should enjoy maximum freedom and social laws must be at minimum level in order to limit their infringement on man's freedom. That which is prevalent in Western society today is exactly this individual-oriented approach from which liberalism has emanated which holds that laws should be at the minimum level while people enjoy maximum freedom .and do whatever they like

Before stating the Islamic viewpoint, it is worth mentioning that the issue of maximum or minimum scope of law has something to do with some fields of social sciences such as philosophical sociology (individual-oriented or society-oriented), moral philosophy (the criterion of moral values, morality and its values above law or determined by .law), legal philosophy, and political philosophy

According to Islam, all aspects of human life are connected to their ultimate destiny. That is, any effort exerted in this life will affect our eternal bliss or perdition. The Islamic perspective is that "This world is the sowing field for the hereafter." In other words, whatever man sows in this world will be reaped in the hereafter and will

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.either lead to his success, or wretchedness and damnation

If we take this perspective as authentic, is there anything in the life of man which is not in need of law? Here, law has to show the way, method and approach that will enable man to reach his goal. That is, if society yearns for security, no one should have the right to encroach upon the property and dignity of people; otherwise, his :property and dignity will also be assaulted. It should not be that

ببری مال مسلمان و چون مالت ببرند

داد و فریاد برآری که مسلمانی نیست

,You take away Muslim property, but when they take yours

"!Raise a hue and cry, "This is not a Muslim practice

Man is selfishly profit-oriented by nature. He leaves no stone unturned by hook or by crook to gain profit, but once his interests are threatened, he seeks refuge in law. So, in order to remove contradictions and conflicts and foster cooperation and security in society there should be law that deters us from oppressing and encroaching upon others, defines the rights of everyone, specifies the bounds of justice and oppression on the basis of which people know which acts are considered just and iniquitous. Otherwise, all rights will be violated by all, and as a result, neither security nor tranquility, peace of mind nor otherworldly felicity will remain, and no one will achieve .his innate goals

In the Islamic perspective, therefore, all our movements and pauses, whether in individual and family life or

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social life and even international relations, follow an order and rules. Islam has a legal code for all aspects of human life, legal and social laws included. Islam even has a law regarding man's imagination and thought, saying that a person has no right to keep in his heart whatever he or she likes, entertain any fancy in his or her mind, and think ill (of others—"Indeed some suspicions are sins."(۱

Just as non-observance of health tips leads to sickness, endangering the wellbeing of .individuals and society, society will also be destroyed for not observing Islamic rules

What has been said is that no aspect of human life is beyond the scope of Islamic laws and that man should control even his heart and mind but it does not mean obstruction of man's freedom. It rather means showing him the correct use of freedom and

lighting a torch along his path so that he can rightfully enjoy his freedom. Of course, as long as they are not related to man's social life, these laws do not stipulate penalty in this world but only chastisement in the hereafter. However, if there is a violation of social rules and laws, and social interests are trampled upon, penalty in this world .shall be taken into account

In reality, penalty in this world is a requisite of all legal laws and it is not confined to the legal laws of Islam only. Every legal system that wants to enact laws for the maintenance of

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.Surah al-Hujurat ۴۹:۱۲ -۱

order and social security has no option but to consider a set of penalties for violators and offenders. This is because social life can not be established without laws that restrict individual freedom and liberty. As social relations increase and expand, the .need for social laws and their guaranteed implementation will also increase

Session ۱۱: Criterion of Credibility of Law

Exigency of delving into major political issues

In elucidating the Islamic political theory, we have made some discussions during the previous sessions and pointed out that the subject can be approached in two ways. One approach is argumentative [jadali], in which the fact that the addressee is a Muslim who adheres to Islam and Shi'ism or believes in other ideological and moral fundamentals is disregarded; basic principles and foundations agreed upon by the .two sides are taken into account as the principles and basis of discussion

By sticking to those preliminaries, the discussion continues till conclusion. The second approach is evidential [burhani] in which the discussion is made by organizing and presenting profound rational proofs and all groups of the discussion examine even the principles of the subject. By basing the argument on axiomatic truths, each one .tries to present indisputable rational evidence

Evidence-oriented discussions are wearisome and appropriate for the academic and scientific circles. It must be noted, however, that our society has taken quantum leaps in cultural advancements and acquisition of knowledge. Today, the achievements of our youth, especially in the field of religious and political matters, are greater than .those of some scholars in the past

As such, it is

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necessary to continuously engage in profound evidential discussions so as to improve the intellectual and cultural level of our society, particularly in areas related to the principles of the system and pristine Islamic doctrines, and acquire the capability to .confront and respond to skepticism and not be influenced by others

At this point, we will try to present the subjects related to the principles of the subject under discussion in a simple manner devoid of intricate scientific and philosophical terms. We will also try to strengthen the rational roots of these doctrines in minds so .as to make them more resilient to the prevailing wave of skepticism

The distinctive function of the government and political system is to support and guarantee the implementation of legal laws in society. The difference between moral laws and legal-political laws is that being ethical, they have no external force guaranteeing their implementation. Every person adheres to them based on his/her religious beliefs and orientation. Legal laws, on the other hand, have an external .support guaranteeing their implementation

The salient feature of legal laws is that they are imposed on the people by society and the executive organ. Even if a person has no conviction in these laws, he is still duty-bound to follow them. In case of violation by individuals, the government is obliged to implement these laws by resorting to the use of naked force, and in case of necessity, .even by the use of arms

After the victory of the Islamic Revolution, especially

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after the internal disturbances and arbitrary assassinations, government officials have consistently chanted the slogan of 'the rule of law'. Even one of the initial years after the Revolution was called "Year of Law", and till this day, all our presidents have pursued it. It must be taken into account that one of the main valuable slogans of the government is the implementation of law at the national level and prevention of its violations. It is, therefore, expedient that there must be a discussion about law and its .credibility, and due response be given to relevant skepticism and questions

Scope and criterion of credibility of law

point

The most common skeptical questions for many people are the following: To what extent can a law be binding and where does its credibility emanate from? Why is it necessary for individuals to submit to law? Which law has such absolute credibility to which one has to submit absolutely? Before continuing the discussion and addressing these questions, it is worth pointing out that according to us Muslims who adhere to the Islamic system and to whom the words of the Imam and the Supreme Leader are considered proof, there is no room for doubt and ambiguity that laws of the Islamic government—whether they are ratified bills of the Islamic Consultative Assembly, or laws ratified by cabinet and even circulars communicated from ministries to offices—are all binding, and according to the statement of the Imam (q) when he says that .laws of the Islamic government are binding, we are bound to act upon them

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I personally strive to faithfully observe the minutest details of laws and orders of the Islamic government including even those points that are contrary to my personal .juristic view and edict

Observance of decrees and orders of the Islamic government and obedience to the wali al-amr is obligatory upon us, and we have no doubt in this regard. If we discuss the criterion of their credibility, it should not be imagined that we want to cast doubt

upon the exigency of acting upon government laws. Our goal is to strengthen the .intellectual roots and foundations of adherence to the Islamic government

Our attempt is to clarify why we have to obey the orders of the Islamic government. When the government declares a certain day as a public holiday, or levies a certain sum as tax to those for whom taxation laws and rules are applicable, or issues certain orders on a certain situation, calls for public participation under exceptional circumstances like war, and implements special laws, the people should know why they should abide by those laws and orders. The mere presence of the one who gives .orders is not sufficient reason for the people to follow and act upon his orders

Our discussion is related to political philosophy, and the issue of law and its credibility and the exigency of following it is among the fundamental issues of all political systems and not only confined to the Islamic system. Those who are familiar with the subjects in political philosophy and legal

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philosophy know that scholars and experts in these two fields of human knowledge have tried to elucidate this issue and present different views substantiated by .reasons and arguments

So far, however, they have not arrived at a definite view fully substantiated and defensible. We can summarize the most important views and ideas presented by .these scholars on the criterion of credibility of law under three headings

Justice theory .۱

Some believe that justice is the criterion of the law's credibility. If a law is enacted based on justice and the rights of people, it shall be credible for the people to follow it. .But if it is not anchored in justice and enacted unjustly, it has no credibility

Providing for social needs .۲

The second view is that it provides for the needs of society. Members of society have

particular needs which have no individual or personal dimension. Everyone by himself or herself may have such a sense of needs but these needs are social in essence and emerge in the context of social life. For example, maintenance of public health is a social need. In his/her personal life within his/her home, a person may maintain personal hygiene if he/she wants to, but, with respect to the maintenance of public .health, persuading each person to maintain public health is difficult and problematic

There should be an institution above individual decision and action to provide for these public needs. For instance, when a disease like cholera or plague becomes rampant in a society, individual measures to control it can

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do nothing. There should be a government body whose function is to control it and maintain public health through programs, such as vaccination and others. By means of enacting rules and regulations—including common rules and regulations—it is the duty of the government to ensure the vaccination of people during that period of time. (As said earlier, we are referring to law in its general sense which also includes binding (.instructions, circulars and orders

Since public health is a need of society and its observance is a social necessity, pertinent laws have been enacted and all are obliged to observe them. Similarly, in relation to environmental protection, keeping the biosphere clean and providing for public needs, the government has instituted certain bodies to address those problems, while the people are obliged to obey the orders and instructions issued by .them

So, the totality of laws and institutions taken into account by the government, such as the Ministry of Training and Education, Ministry of Health and Medical Treatment, and other ministries as well as their orders and instructions are all geared toward addressing social needs and safeguarding the interests of society, and as such, they .are legitimate

Will of the people .۳

Some regard the will of the people as the criterion and basis of credibility of law. According to them, law is meant to address the demands of society. When people want something from the government or legislature, the cabinet and the parliament ratifies a law in accordance with the people's will. Since the law is inspired by

.the people's will, it is binding, and the people have to strive to implement it

In reality, the actual realization of the people's will is expressed through the election of the members of parliament who enact laws according to the will and need of people. Accordingly, if the deputies elected by the people have no right of legislation, their election by the people will be useless. If they have the right to enact laws but .their statutory laws are not binding, legislation will become an exercise in futility

What has been mentioned is a summary of views of legal and political philosophers on the issue of the source of credibility of law. Muslims regard the will of God as the criterion of credibility of law and we believe that whatever God commands is considered a law and is binding. Of course, the latter view is accepted only by those .who have faith in religion and God

In examining and criticizing the abovementioned views, we shall refrain from an) extensive scientific and academic analysis. We shall do so in a manner commensurate (.to the people's common level of understanding

Objection to the first view

It was stated in the first view that the law's credibility emanates from the observance of justice. In this connection, a fundamental question which has also been dealt with by many great scholars of international repute is this: What is justice and how can it be materialized? The concept of justice is clear to all, but legal and political theorists have spent much time

.over it because of the existence of different interpretations of justice

If all people equally benefit from the wealth of society, will it be considered justice implemented? That is, if a political system provides such conditions and facilities that all people equally acquire lodging, clothing and transport, is justice implemented, and is its opposite injustice? Such a Marxist approach led to the emergence of the .communist theory

The architects of this theory stated that they were working toward the emergence of a classless society in which everyone worked according to his capacity and enjoyed the fruit of labor according to his need. They realized that this aspiration could not be achieved in practice because the above approach had many challenges along its way, like the conflict between justice and freedom. As such, by modifying and regulating their slogans, they satisfied themselves with a socialist government, though they still .regarded a communist government as the ideal

When Marx observed that a majority of people, particularly the workers and farmers, were being oppressed, he said that this oppression and injustice must come to an end and efforts must be made to make all people enjoy equal rights. It was actually meant to achieve a classless society that would enjoy the perfect and ideal equality of paradise on earth. Then, those who had eclectically Islamic inclinations added an Islamic adjunct and thus emerged the "monotheistic classless society". It needs to be clarified whether or not justice means that all people are equal and the

.same

Some believe that justice means that every person should enjoy the benefits of society according to the effort he puts in. That is, if a person does something, he should receive a payment commensurate to the value of his work. So, if a person is lazy and does nothing, he should only be provided with social security in a bid to create perfect equality, and thus, justice be realized. Justice is realized when those who work get compensation for it. If a person provides surplus value through his

.efforts and production and does not get its fruit, his right is violated

Superiority of Islamic laws

Undoubtedly, the above two interpretations of justice—which are cited as an example—are in total conflict and disharmony with each other in practice. They seem to be intolerant, inconsistent and discordant with the divine laws and monotheistic beliefs. For example, we have a set of laws in Islam which, according to our ideological principles, are the best and most beneficial laws for society and certainly concordant .with justice

However, these laws are unacceptable to many people in the world who regard them as unjust and oppressive. For instance, in many cases of inheritance the Islamic laws have set differences between the share of man and woman, though in some cases their share is the same. The difference is based on an explicit text of the Holy Qur'an :which stipulates that the share of woman is half that of man

Then for the male shall be the like of the share"

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(of two females."(۱

Undoubtedly, those who are not familiar with the ideological and intellectual foundations of Islam regard such a law as unjust because according to them God has discriminated against women. On the other hand, in relation to the conjugal life of husband and wife, Islam makes it incumbent upon the husband to provide all the family expenses including food, clothing and lodging of his spouse and children. .According to the Islamic perspective, the wife has the right to save all her earnings

Her income and inherited property belong to her and she is not required to contribute even a small sum for the family expenses. She even has the right to ask payment for the services she is rendering at home, such as washing clothes, cooking food and even feeding her infant child. However, those who are not exactly acquainted with Islam, when they take such an order into consideration, even if they deal with it

.impartially they will say that Islam has nit enacted a just law

In order to dispel the accusation and prove that such laws are just, we have to see which interpretation and definition of justice we have. If justice means equality, then all laws are unjust because equality is not observed in them. If justice has another interpretation, it must be seen what that interpretation is. Of course, it is not easy to know the essence of justice and the way to implement it. For this reason, great philosophers have conducted extensive research

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Surah an-Nisa' ۴:۱۷۶ -۱

.on the relationship between justice, freedom and law

In sum, if we take justice as the criterion of credibility of law, the problem will not be solved. The first question we shall encounter is this: To which interpretation of justice shall we refer? Interpretations of justice are subjective. What is just and credible for .one is unjust and incredible for another

Inapplicability of the second view

The second view is that a certain law is credible because it provides for the needs of society. Of course, this view is clearer and more acceptable because all, more or less, understand what the needs of society are. This is especially true if we consider that in the society we live in and our predecessors lived before us, a lawgiver or ruler was .supposed to understand the needs of society and know how to provide for them

The question and objection to this view is: The needs of society can be provided for in different ways, and this fact leads to the difference of opinion on the codification of law. For example, the beautification and cleanliness of a city is a public need and must be provided for. But from where should its budget be allocated? Should its budget be secured through the individual accounts of families—that is, to oblige every family to shoulder a part of the expenses for the city's beautification and cleanliness? The second option is that the current expenditure of the city should be secured from the

general budget that is mainly secured through the

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.taxes which are levied from the rich, while the poor are exempted from it

The third option is to expect the government to provide for the needs of society from the exploitation of underground resources such as oil, copper and iron and their revenue. Now, considering that providing for the needs of society is taken into account as the criterion of credibility of law and that each of the abovementioned options is meant to provide for the needs of society, which of them must be regarded as credible? Which of them do the people regard as the most proper and just? The answer will again be subjective. It shows that this criterion alone is not sufficient to .determine the law's credibility

Defects of the third view and extent of needs according to Islam

According to the third view, only the will of people is credible and whatever the people want should become law and be implemented. The question to be asked in this regard is: Does the criterion demand that all the people want the thing in question? Such a thing cannot be realized in the world. Among millions of laws there is not a single law which is unanimously approved by all people. A law may be accepted by the public but at least one or two percent of the people oppose it. As such, what is the criterion of ?credibility for those who oppose

The other point is that if that which is liked by the people is repugnant to the spirit of justice, is it credible or not? Also, if

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what the people want is opposed to the second criterion; that is, what the people want is not meant to provide for the needs of society, does it still have credibility? If a law requires the collection of money from the people, maybe most of them oppose it, .just as when a new tax is levied, people accept it out of compulsion

Nowhere is taxation warmly welcomed by people, and whenever the government wants to collect money to provide for the needs of society, the people accept it uneasily. In this case, if we want to act upon the will of people, the needs of society will not be addressed while it is assumed that one of the criteria of credibility is providing for the needs of society. When the people's will is in conflict with providing for the needs of society, should the interests of society be upheld or the will of the majority? Undoubtedly, legislators and those whose function is to provide for the needs of society (executive officials) can actually observe that if they try to abide by the will of people in these cases, they cannot make any progress. (Of course, this issue can be traced to the discussion about democratic models which must be (.examined in another session

In any case, such objections to the criteria of credibility of law exist. Of course, in our opinion, the more fundamental and serious objection is that the abovementioned interests and needs are only material interests and needs. The

general notion is that only these human needs must be provided for in society. Is the government obliged to address only the things related to the material and worldly ?affairs of people? Or, does the government also have a duty beyond them

In clearer terms, we Muslims and all those who follow one of the revealed religions believe that man has two components: body and soul. In addition, the view of most or all religions is that the soul is nobler than the body and the latter serves the former. These religions maintain that just as the body needs good health, its getting sick needs to be prevented and cured, the human soul also needs sound health, must be prevented from getting sick, and be cured in case of sickness. If we compare material needs with spiritual needs, we will find that spiritual and religious needs are more .important

Sickness of the body is less dangerous and serious compared to sickness of the soul because humanity and human merits and attributes are related to the soul, and if a .person's soul gets sick, his humanity will also fade away

All animals have bodies and different physical conditions and are in constant pursuit of material and physical enjoyments. What makes man special and constitutes the essence of humanity is his soul. Now, if that which is the criterion of humanity faces danger, man will experience real death. As God says,

(أَوَ مَن كَانَ مَيْتًا فَأَحْيَيْنَاهُ وَجَعَلْنَا لَهُ نُورًا يَمْشِي بِهِ

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فِي النَّاسِ كَمَن مَّثَلُهُ فِي الظُّلُمَاتِ لَيْسَ بِخَارِجٍ مِّنْهَا كَذَلِكَ زُيِّنَ لِلْكَافِرِينَ مَا كَانُواْ يَعْمَلُونَ)

"Is he who was lifeless, then We gave him life and provided him with a light by which he walks among the people, like one who dwells in manifold darkness which he cannot leave? To the faithless is thus presented as decorous what they have being doing."(۱)

In view of this fact, should the government which is in pursuit of securing the interests of society not pay attention to the spiritual and religious affairs of people? Is it the duty of government to provide only for the material needs of people? Or, is addressing the spiritual welfare also part of its duties and should it strive hard to provide it?

The Islamic Revolution and superior station of spiritual interests

One of the intricate questions raised is: If in a case material progress conflicts with spiritual advancement, which should take precedence? If under specific circumstances of time and space, the material progress of society demands the setting aside of spiritual advancement and there is a conflict between material/economic progress and spiritual interests, is the government duty-bound to limit material progress in order to protect the spiritual interests of society? Or, is securing the spiritual interests not the concern of the political system and government? Or, is the duty of government to only provide for the material needs and securing the spiritual interests is a personal responsibility of the people themselves?

This is a very serious question, and it has practical results in our social life. Nowadays,

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.Surah al-An'am ۶:۱۲۲ -۱

it is widely brought up in periodicals and the mass media and dispute arises over it. There are those who say that the government's duty is to deal with political, economic and cultural development. The manifestations of cultural development for others are .preservation of national heritage, sports and music. For us they are spiritual interests

Those who are fond of Islam and support the Islamic Revolution give special importance to spiritual interests. We believe realization of that the main motive behind the Islamic Revolution was maintenance at spiritual interests. Of course, we are of the opinion that under the auspices of Islam material interests—in due time—will be secured, but in a short period some material interests maybe arbitrarily affected. In spite of this, along the path of their firm conviction in divine spiritual values and the protection of spiritual interests, our people actually proved that they .were ready to endure economic sanctions, inflation, and scarcity of consumer goods

They were ready to sacrifice their beloved ones on the battlefield and become widows and orphans in order to keep Islam and the spiritual values firmly grounded. For instance, the last testaments of martyrs show that their objective was the protection of Islam and preservation of spiritual values. In view of what has been said, at least for us there is also another criterion apart from materials interests, and that is securing the spiritual interests. If securing the interests is one of the criteria of "credibility of law, in our opinion "interests

.include both material and spiritual interests

To examine the interests of society and determine their indicators is a more insightful and profound endeavor than that which is discussed in political philosophy and legal philosophy. The axis of the discussion revolves around these questions: Does man truly have real interests apart from the material ones? Or, are his interests the same

material interests plus a set of customs and traditions that sometimes change? Does ?he have no other interests within the context of spiritual and ideological needs

Are the real interests and needs the same material things which can be contained within scientific experiments and be identified through material indicators such as medical, economic, industrial and technological developments? Or, are there also spiritual and ideological interests above them which cannot be experienced by the ?senses

We believe that the real interests are the same spiritual and ideological interests which are related to the metaphysical world, and so to speak, are not part of scientific issues and cannot be proved through the scientific method which is no other than the empirical one. So, before saying that spiritual interests must be secured in society and that the government is duty-bound to secure them—if we only want to engage in an evidential discussion—we will have to deal with this question: Do we really have ?interests other than material ones

Session ۱۲: The Different Views of Islam and the West on Values

The best law according to Islam and the danger of eclecticism

The reason behind the emphasis on this subject and the discussion in this regard is the deviation among different levels of people as a

result of intellectual eclecticism. To cite an example, if a scientist formulates a theory in the field of physics, only someone occupying a high station in the said field, like Albert Einstein, can express his opinion about the theory. However, the same scientist .(Einstein) will not express his opinion on a theory in psychology

If he ever wants to affirm or reject the said theory, he will refer to an authority in psychology because the field of science in question is beyond his expertise. Similarly, other scientists affirm and endorse a theory outside their expertise based on the affirmation of concerned authorities. There are times, however, when after studying

the views of scientists in various fields a person accepts some views and inclines .toward them without assessing them as being harmonious together or not

Will his views and opinions constitute a coherent set of human values? He has neither thought about this approach nor has any intention of doing so. He merely says that in his opinion, so-and-so psychologist, sociologist, or lawyer has a better view, and this .attitude leads to intellectual eclecticism

The people of insight and research, however, collect all the views and analyze whether they are compatible or not. If they want to accept the theory of a certain psychologist, they compare it with another theory in sociology in order to know whether they are compatible or not. They also carry out the same comparison .regarding other views in other fields and subjects

The ground for eclecticism is

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more fertile in the lower academic levels where people study a book in any field without investigating the credibility of the author and the consistency of his ideas with other ideas and views in other subjects tend to be influenced by it. The result is .intellectual eclecticism

Intellectual eclecticism in realm of religious thought

Unfortunately, in our Islamic society, particularly during the last fifty years, many eclectic ideas have emerged. In a certain stage of their lives, people accept certain doctrines of Islam through their parents, environment and religious leaders. Then in the next stage, on entering high school and university they become acquainted with other views and beliefs from different sciences and subjects and also accept them without considering whether these views and beliefs are consistent or not; for example, whether a philosophical theory they have accepted is compatible with a certain religious theory or theory in biology, physics, or mathematics. When observed carefully, we find out that in some cases these views are incompatible and they do not .constitute a coherent set. This form of thinking is called eclectic thinking

Nowadays, many individuals in our religious society are afflicted with eclectic thinking because on the one hand, they have inherited family beliefs of the Islamic society which they do not want to abandon. On the other hand, ideas from different fields of social sciences are presented to them which they also accept and attach to the religious beliefs without knowing that these different ideas and views are incompatible with each other and that we have

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to accept either the religious beliefs or those ideas which are incompatible with .religion

Therefore, if we want to accept ideas and views in the fields of sociology, law, political science, and the like which are compatible with our religious beliefs, we have to set aside the schools of thought presented to us through the translation of foreign books and their propaganda, and advance new ideas in social sciences which are scientifically, foundationally and essentially compatible with our religious beliefs. Otherwise, we will either have to abandon our religious beliefs or set aside those ideas and views which are incompatible with our religious beliefs. The two cannot be !combined together just as one cannot accept that it is day and night at the same time

Without paying attention to the fundamental point we have mentioned, one cannot deal with all ideas and views and take something from each of them and adopt intellectual and religious eclecticism because in this case, the extremist idea of pluralism in knowledge and understanding will emerge in us which believes that whatever a person says is correct; nothing is absolutely false; every person tells a .part of the truth; and every school of thought has part of the truth

With the support of agnosticism in philosophy, which is also very popular today in the West, this approach ends up in skepticism. This approach asserts that the views of different sciences possess a portion of the truth. We cannot say that we have a definite and certain belief

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in something. So, it is better for us to have no definite and absolute belief in anything and only consider as probable the correctness and incorrectness of a theory. With regard to religion also, we have to accept religious pluralism, according to which we have to accept as correct the viewpoints of both the Muslims who believe in the Oneness of God and the beliefs of someone whom the Muslims regard deserves .eternal damnation

We have to equally accept as correct the faith of Christians who believe in the Trinity and the Zoroastrians who believe in the god of good and the god of evil, because none of these beliefs is definite and certain. Possibly, each of them is correct or incorrect and we are not supposed to confront any of them because all of them can be good .and correct

Tolerance of all beliefs and different conflicting views is anchored in the foundation of skepticism, agnosticism and pluralism, which reject the absoluteness of any belief. Social indulgence and negligence gain strength in the absence of prejudice, partisanship and violence, and they say, it is better not to be prejudiced but assume whatever another person says as possibly correct. This approach successfully creates .a sense of indifference to religious, philosophical and scientific beliefs in a person

Today this agnosticism of the Western world is also offered to us. There is an endeavor to make our society negligent and insensitive to religious, philosophical and scientific beliefs, and become skeptical about every viewpoint

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and theory, and believe that it could possibly be correct and so could its contradiction. Sometimes, it is also said that we should not regard our understanding as absolute and say that it is totally correct and there is no correct but this. We should not have such certainty. We should have our own beliefs and hold them respectable. Others .should have also their own beliefs

This culture adopted by the Western world for itself today, is being promoted so that the whole world should come under the influence of this culture. This culture negates

the certainty of beliefs, negates the religion of truth, negates the belief that the true madhhab and correct theory are one, and inculcates the idea that the correct theory may be multiple so no one should have certainty of belief in anything. There should be no fanaticism in discussion. Religious zeal and sectarian fanaticism should be .eliminated

The people's inclination to one religion, one madhhab and one idea should be eliminated so that all could live together and have no conflict over religious issues because these very religious disputes are the source of wars and mass murder. All sects, religions and ideas should be considered correct and truthful in order to pave .the ground for peace, security and happiness

Concept of religious pluralism

We do not intend to deal with the issue of pluralism in particular, but let us clearly say that we actually believe that we should deal respectfully, calmly and properly with followers of different religions and authorities

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in different philosophies and sciences. They should be allowed to express and defend their views and participate in dialogues, discussions and investigations in various .spheres

In today's world we can witness Christians, Jews and Zoroastrians living together in peace, there being no room for conflict, dispute, fratricide, and genocide in their midst. This is something which receives more attention in Islam than in any religious, sectarian or political group, and followers of religions have not been accorded as cordial a treatment as offered by Islam. In Islam the cornerstone of beliefs is monotheism [tawhid] and struggle against the Trinity and polytheism [shirk] is regarded necessary in propagating and fortifying tawhid, yet in Islam, Christianity and .Judaism are officially recognized religions

Followers of these religions are under the protection of Islam. Their lives, property and honor are protected, and no one has the right to commit the least act of

.harassment and aggression against them

This kind of treatment and attitude toward the followers of other religions is inspired by the conduct of the awliya' of religion including the Commander of the Faithful ('a). In one of his sermons recorded in Nahj al-Balaghah, the Commander of the Faithful ('a) says: "I have come to know that every one of them entered upon... women under the protection of Islam and took away ornaments from their legs, arms, necks, and ears... If any Muslim dies of grief after all this he is not to be blamed but rather there is justification for him before

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(me."(۱

This is because in the Islamic territory and under the protection of the Islamic state a non-Muslim woman has been oppressed. Such an attitude toward followers of other religions is among the merits and sources of pride of Islam and according to an :explicit text of the Qur'an

(قُلْ يَا أَهْلَ الْكِتَابِ تَعَالَوْا إِلَى كَلَمَهٍ سَوَاءٍ بَيْنَنَا وَبَيْنَكُمْ أَلاَّ نَعْبُدَ إِلاَّ اللّه...)

Say, 'O People of the Book! Come to a word common between us and you: that we" (will worship no one but Allah..."(۲

:Also, another verse invites us to the best manner of disputation

(وَلاَ تُجَادِلُوا أَهْلَ الْكِتَابِ إِلا بِالَّتِي هِيَ أَحْسَنُ...)

(Do not dispute with the People of the Book except in a manner which is best."(۳"

If that is the meaning of pluralism, then we have to say that it is one of Islam's sources of pride. However, if pluralism means that we say to ourselves that Christianity is also like Islam; Judaism is also like Islam; there is no difference between being a Muslim and a Jew because each of them has a segment of the truth; neither Islam nor Judaism is the absolute truth; or both of them are the truth, like two ways that end up in a single point of destination whichever way one treads,

undoubtedly, such a notion and understanding is inconsistent with the spirit of every religion and the dictates of reason. Can it be claimed that belief in tawhid is identical with the belief in Trinity? In other words, is there no difference

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۱ - Nahj al-Balaghah, Sermon ۲۷. This refers to the attack of Sufyan ibn 'Awf (a commander of Mu'awiyah) on the city of Anbar that took place at the time of Imam 'Ali's ('a) rule. One of the soldiers stopped two women, one a Muslim and the other a dhimmi and robbed them of their anklets, bracelets and earrings. [Trans.]

۲- Surah Al 'Imran ۳:۶۴.

۳- Surah al-'Ankabut ۲۹:۴۶.

between the belief in the Oneness of God and the belief in Trinity and many gods? The religion of Islam says:

(وَلاَ تَقُولُواْ ثَلاَثَةٌ انتَهُواْ خَيْرًا لَّكُمْ)

"And do not say, '[God is] a trinity.' Relinquish [such a creed]! That is better for you."(۱)

In dealing with the untoward attributes given to God such as His having a child, the Qur'an says:

(تَكَادُ السَّمَاوَاتُ يَتَفَطَّرْنَ مِنْهُ وَتَنشَقُّ الْأَرْضُ وَتَخِرُّ الْجِبَالُ هَدًّا)

"The heavens are about to be rent apart at it, the earth to split open, and the mountains to collapse into bits!"(۲)

Now, when Islam has such a firm approach toward polytheistic beliefs, how can we say that if you like you can be a Muslim and if you don't, then worship idols, and these two faiths have no differences and are among the "straight paths" leading to the same goal! I think it is improbable for a rational person to accept this. In any case, intellectual eclecticism is one of the plagues and predicaments of our age which must be given attention to and the ways of purging the mind and acquiring a pure and pristine mentality must be identified and acted upon.

Magnificence of servitude to God and its conflict with absolute freedom

Consistent with our discussion is the fact that there are those who, by taking inspiration from Western culture, accept the principle of freedom as the greatest of human values for man. They claim adherence to Islam and its traditions and commandments and consider themselves religious, but they are so passionate in advocating Western values that they become more Western

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.Surah an-Nisa' ۴:١٧١ -١

.Surah Maryam ١٩:٩٠ -٢

than the Westerners. Undoubtedly, this is a kind of eclecticism. If we were to logically discuss with this group, we would say that the foundation of Islam is the worship of :God

(وَلَقَدْ بَعَثْنَا فِى كُلِّ أُمَّهٍ رَّسُولاً أَنِ اعْبُدُوا اللّهَ وَاجْتَنِبُوا الطَّاغُوتَ...)

Certainly We raised an apostle in every nation [to preach:] 'Worship Allah, and keep" (away from the Rebel'..."(١

The pillar of every religion with heavenly origin is sincere servitude to God, and a Muslim, Jew or Christian does not understand religion as other than this. We believe that Islam is similar to other monotheistic religions in the general principles of belief, but different in laws that have been promulgated in consonance with the exigencies of time and space. The differences observed in this regard, are the result of distortions that have taken place in other religions with heavenly origin. The loftiest value of Islam is that man should be a sincere servant of God. It is a truth which has :been expressed by God in many verses of the Qur'an such as the following

(وَما اُمِرُوا إِلاّ لِيَعْبُدُوا اللهَ مُخْلِصِينَ لَهُ الدِّين...)

Yet they were not commanded except to worship Allah, dedicating their faith to" (Him..."(٢

(أَلَا لِلَّهِ الدِّينُ الْخَالِصُ...)

"[Only] exclusive faith is worthy of Allah..."[3]

(وَمَن يُسْلِمْ وَجْهَهُ إِلَى اللَّهِ وَهُوَ مُحْسِنٌ فَقَدِ اسْتَمْسَكَ بِالْعُرْوَةِ الْوُثْقَى...)

"Whoever surrenders his heart to Allah and is virtuous has certainly held fast to the firmest handle..."[4]

Once man recognizes himself as a servant of God and regards servitude to God as the greatest value and considers himself totally

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۱- Surah an-Nahl ۱۶:۳۶.
۲- Surah al-Bayyinah ۹۸:۵.
۳- Surah az-Zumar ۳۹:۳.
۴- Surah Luqman ۳۱:۲۲.

at the disposal of God, can he believe in absolute freedom and regard as valuable whatever he likes? Are these two compatible and concordant? If I really believe that Islam is the true religion of God which must be accepted, and that I have to worship God, surrender everything and submit to His will, how can I believe that I can be absolutely free to do whatever I want? How can these two ways of thinking be concordant?

Those who claim this is possible have unconsciously succumbed to eclecticism, have actually no belief in Islam in their hearts, make this claim in order to deceive others, or, are incapable of realizing that these ways of thinking are not concordant. Otherwise, how could man, on the one hand, say that he is totally subservient to the will of God and, on the other hand, believe that he has absolute freedom and can do whatever he wants?!

This way of thinking, i.e. belief in the absolute freedom of man is a product of Western thought. In the West a group of believers of Christianity, while keeping their religion—

perhaps because of their innate inclinations or the environment and type of their religious upbringing could not abandon their religion—inclined toward ideas like the absolute freedom of man as the result of certain arguments, reasons or doubts.

Undoubtedly, one who makes such a claim does not do so without any proof and justification. In fact, he starts with a point and speaks eloquently on it. For

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example, his opening salvo is this: "Is it better to place a bird inside a cage and place the cage inside another iron cage, or to open the cages so that the bird can fly and go wherever it likes?" It is obvious that the flying and freedom of a bird is far better and desirable. Then, he says: "This is exactly the freedom we are talking about!"

In our society, a complete set of laws based on religion has been codified. Embedded in it is a set of laws related to the wilayah al-faqih, within which are the statutory laws of the Islamic Consultative Assembly and the Expediency Council. Finally, the Council of Guardians reviews the ratified laws. Such a structure is actually placing a cage inside a cage! The best law is that which gives permission to people to do and say whatever they like, and as a whole, gives absolute freedom. Evidently, the first law is a cage while the second one is freedom!

In dealing with beliefs, ideas and views derived from other cultures, we should try to trace their roots and see whether they are compatible with Islamic thought or not. If they are compatible, well and good, and if not, we need to discard them. We should refer to the rudimentary principles of our religion and take them as the foundation and basis of our thoughts, beliefs and culture.

The West and elimination of alleged contradiction between science and religion

In a bid to eliminate the alleged contradiction between science and religion, Western religious figures,

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doubtful of their religion, said that the real jurisdiction of religion is distinct from that of science and philosophy. A philosophical, moral, or human value is compatible or incompatible depending on whether they both meet at a certain point, because when we assume one line to be inclined toward another line, the two lines will meet at a certain point. However, if the two lines are parallel, they will never meet nor oppose each other because each of them ends up at a point which is distinct from that of the .other

In explaining and justifying the relationship between science and religion, they say that there should be reconciliation between religion and science, religion and philosophy, religion and reason, religion and moral values, and two distinct realms created for them. That is, separating the realm of religion from other subjects. The realm of religion is man's connection with God such as, praising God, prayer, supplication, and a set of issues which are totally personal and have nothing to do .with others

In this realm, there is no room for science, philosophy or any other subject; it is only related to the heart. If there is anything associated with religion in this realm, it is mysticism ['irfan], because religion and mysticism are of the same class and share the same goal. Thus, science, philosophy and rationality have no place in the realm of .religion. In fact, the realm of each of them is distinct, each having its specific function

Ethics, values, praying, and

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do's and don'ts related to God, is related to religion, and in this realm it does not conflict with science. However, if these dos and don'ts are related to man's social life, like the proper treatment of a thief, traitor or any other criminal—to punish him or not —they say that whoever commits a crime or offence is sick, and thus, he must be cured. He should be nursed and treated with kindness and understanding in a suitable !place so that he desists from committing crime

We do not know any country or place in the world where a criminal or offender is

treated like a patient and not punished. But in presenting a theory, they say: "The criminal should not be punished because punishment is neither appropriate for man nor consistent with human dignity." As a general principle, they advance the proposition that man, even if he commits the most horrendous of crimes, should not be punished at all because this kind of approach is repugnant to the dignity and station of man. Contrary to this idea, we Muslims believe that religion has jurisdiction over all aspects and dimensions of life and has promulgated relevant laws. Regarding the thief, for example, it says:

(وَالسَّارِقُ وَالسَّارِقَةُ فَاقْطَعُوا أَيْدِيَهُمَا...)

"As for the thief, man and woman, cut off their hands..."(۱)

Those who have separated social matters from the realm of religion say that religion has no right to interfere in such domains. Religion can only urge you to pray or teach you how to

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۱- Surah al-Ma'idah ۵:۳۸.

praise God. But treating a criminal has nothing to do with religion. Certainly, empirical science has also nothing to do with such cases because empirical science describes the laws that govern phenomena.

In other words, science expresses "being" and it cannot determine the "dos and don'ts". Moral laws cannot be derived from science. So, in the context of moral and social values, including legal, civil and penal laws and purely ethical issues in which moral dos and don'ts are involved, religion and "empirical science" cannot interfere.

Station of people's will in liberalism and Islam

As neither religion nor science can get involved in the realm of moral issues and dos and don'ts, the question arises: Which reference authority should get involved in these domains? The reply given by Western culture today is that values and dos and

don’ts are a set of extrinsic affairs which are not real and essential truths and should depend upon the will of the people. Thus, in their opinion the value-oriented dos and don’ts are extrinsic concepts; that is, they are not based an objective and external truths and are only dependent on the people’s tastes. In order to know what to do and what not to do, we should not refer to religion, science, or philosophy. Instead, we .should consult the people only and see what the people want

The foundation of Western democracy in the context of legislation is that there is no reality separate from the will of the people on the basis of which dos and don’ts .should be discovered

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In worldly affairs, dos and don’ts which belong to empirical affairs and are related to the empirical sciences must be proved in the laboratory. But in relation to God, dos and don’ts belong to the realm of religion, so religious orders must be followed. Do’s and don’ts related to social life are related to people themselves. Neither God nor .science has any right to interfere therein

In Western culture the emphasis is on people’s will and public vote. Now, if a person believes that religion encompasses all aspects of human life; all dos and don’ts related to our social behavior come from God, and we cannot follow the will of the ?people, then who should be obeyed if God enjoins a thing which the people oppose

In all societies, more or less, there is this contradiction between what the people want and what is enjoined by religion. But we have nothing to do with other religions which have been distorted. In fact, our subject of discussion is a country whose majority of people are Muslims who have accepted a religion which has explicit and specific laws on all aspects of individual and social lives including family affairs like choosing a spouse and child upbringing, as well as social and international affairs, which have been presented in most verses of the Qur’an, the Sunnah of the Messenger of Allah .((s), and the traditions and conduct of the Ahl al-Bayt (‘a

Those who are people of insight, are not merely blind followers and

want to consciously make a choice, have to settle their stand regarding the religion which claims to have programs for all aspects of man's life, civil, legal and international. They cannot accept the said religion and at the same time claim the people's vote as the criterion of credibility of law, especially in cases where there is ?contradiction between them

Today, unfortunately, all the things highlighted in the West are published in our periodicals. Religion regards homosexuality as the worst and filthiest practice, can people's will takes precedence over God if people voted in favor of its permissibility?! ?Can these two be reconciled

The Western world has solved such problems and cases of conflict between religion and popular will, maintaining that religion has no right to interfere in such affairs and disregard the will of people. Accordingly, religion is related to the church in which the sins of individuals are forgiven through confession and performance of a set of rituals !and then the church sends them to heaven

However, religion has no responsibility or jurisdiction in the realm of social issues in which the deciding factor is the will and vote of the people. In Canada a religious leader who had founded a new Christian sect was asked in a television program about his opinion about homosexuality. He said, "Presently, I cannot express a definite view, "!but I tell you that the Bible must be interpreted anew

Democracy and legislative authority in Islam and the West

By separating the realm of religion from that of social issues, the West found a

self-satisfying way to solve the problem of the alleged contradiction between religion and the people's will. Are Muslims also looking for such a solution? The separation of religion from worldly life and affairs—social, legal, political, and familial is known as "secularism". There are also some individuals who have written many articles and

."delivered numerous talks for the sake of "service to the Iranian culture

In order to advance the notion that the realm of religion is separate from politics and social, legal and economic issues, they are struggling and offering sacrifices day and night along this way. Do we also hold such a belief? As we do not have such a belief, then we should be careful not to be deceived and know that whatever they say and what we believe in are incompatible. We should be aware that in case of conflict between the will of God and that of the people, we should consider what the religion .of God has promulgated above that of the people

I do not intend to advance anything that will be misconstrued to mean opposition to freedom. The people are free in their choice, but they should see to it that they consciously and freely make a choice. They have to know what they are choosing. They should be aware that what is described today as "democracy in legislation" is the notion of superiority of the people's will over that of God. That is, setting religion and God's will aside. If the people are

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about to make a choice, they should be vigilant and not be deceived. They should be aware that the acceptance of Islam as a set of laws and rules governing society is in .no way consistent with the acceptance of democracy in legislation

Those who are busy deceiving people and promoting eclecticism in society and deviating from the subject matter are agitated by my words and examples because their intentions and conspiracies are exposed. Of course, some do not like these words due to political or partisan reasons. Whether these words are pleasant or unpleasant to them, I am willing to strive till my last breath to explain and defend the integrity of religion and to endure all the unpleasant consequences. Neither am I .afraid of any threat nor will I fall into the snare of applause

Here we do not intend to pass judgment but to remind the people to be careful not to be deceived by Western terminologies and concepts for them to abandon their religion. They have to identify the intellectual foundations of mentioned theories. For

example, when it is said that the criterion of the acceptance of law is the will of the people and "democracy in legislation" is promoted, they have to think whether man is .only physically constituted and only possesses a set of animalistic desires

If this is the case, only the people have the right of legislation as the West asserts. Or, as perceived in Islamic thought, if man also has a lofty

dimension and spiritual value, spiritual interests, in addition to observing material interests and social order and security, must also be considered in legislation. In this .case the criterion of the law's credibility should be the will of God

The presumption mentioned earlier will now be raised again. Does man really have a spiritual and metaphysical constitution? Does he have another dimension apart from the physical body and animal instincts? Is there really a life after death for man? Is there really a relationship between this material life and life after death? The reply to this question is clear for Muslims and followers of religions, but we have to bear in mind that our sociopolitical outlook should be consistent with our religious beliefs and .there should be no trace of any form of eclecticism in our thoughts and deeds

If we really believe in the existence of God, the Resurrection, reckoning, and book of account, we have to decide whether to act upon man-made laws or not—assuming that the people's will is the basis of law—which really have a negative effect on our eternal life. This question demands a definite and specific answer and the problem .cannot be solved by doubt, uncertainty, and skepticism

In the West this problem is solved either through the negation of the spiritual world, or by inculcating doubts and uncertainties in minds by suggesting that values and dos and don'ts are not based on real, external truths which are certain, but are merely a set of

conventions and contracts based on the will of the people and have nothing to do with

religion.

Then, our Westernized intellectuals reflect the same ideas in their books and present them to our dear youth, and the state of affairs reaches such a proportion that skepticism is sanctified and they are proud of it! According to religion, however, that is not the case. We have to desist from doubt, bewilderment and uncertainty. We should consciously and certainly make the correct selection just as the Qur’an emphasizes certainty [yaqin] in the beginning and says:

(وَبِالآخِرَهِ هُمْ يُوقِنُونَ)

“And are certain of the Hereafter.”[1]

God says that the God-wary [muttaqin] are those who are certain of the hereafter and it does not say, “They doubt it”. So, anyone who wants to benefit from the Qur’an should be certain of the hereafter. It says in another place:

(وَفِی الأَرْضِ آیَاتٌ لِلْمُوقِنِینَ)

“In the earth are signs for those who have conviction.”[2]

On the other hand, in dealing with those who are influenced by Western culture and say that logically man cannot be certain of any matter especially whatever is beyond matter. The Qur’an describes the state of doubt and uncertainty as the worst state of downfall and disgrace for them:

(فَهُمْ فِی رَیْبِهِمْ یَتَرَدَّدُونَ)

“So they waver in their doubt.”[3]

The Qur’an also says:

(أَؤُنْزِلَ عَلَیْهِ الذِّکْرُ مِنْ بَیْنِنَا بَلْ هُمْ فِی شَکٍّ مِنْ ذِکْرِی...)

“Has the reminder been sent down to him out of [all of] us? Rather they are in doubt concerning My reminder.”[4]

The Qur’an wants us to be people

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.Surah al-Baqarah ۲:۴ -۱

.Surah adh-Dhariyat ۵۱:۲۰ -۲

.Surah at-Tawbah (or, Bara‘ah) ۹:۴۵ -۳

.Surah Ṣad ۳۸:۸ -۴

of certainty especially regarding the roots of religion, viz. belief in God, apostleship [nabuwwah] and the hereafter. Now, we have to choose one of these two options: Either we accept the school of thought which says that basically man cannot have certainty and will always be in doubt and uncertainty, or the school of thought which invites us to make a conscious choice, saying that unless you are people of certainty, .you cannot benefit from the Book of Allah

The difference between the two cultures is that Islam regards the state of doubt, uncertainty and bewilderment as the worst state and likens the person who is in doubt and uncertainty to the one who is situated in a frightening desert and everybody is inviting him toward a different direction and he is bewildered as to which direction to choose. On the contrary, Western culture considers doubt and uncertainty of great value, claiming that man is not a human being unless he doubts and is skeptical. We have to choose one of the two—Islam or skepticism. One cannot accept both of them because it cannot be admitted that it is day and night at the same time .just as monotheism and trinity together cannot constitute a logical thought

An admonition to the youth

I would like to advise our dear youth who are in pursuit of scientific knowledge to have a clear mind and solve these fundamental problems at the outset, and assess whether they should be among the people of doubt or the people of

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certainty, secular or religious, God-worshippers or free from the bondage of

servitude to anyone, including God. We have to accept one of the two. We cannot incline to one sometimes and incline to another at other times. Such a course of action .is dangerous and draws us to infidelity [kufr] and eternal damnation in hell

If we really believe in the truthfulness of the Qur'an, can we accept the absolute freedom of man? Can we believe in religion, liberalism and secularism at the same time? For example, should we regard man as a mere physical being and find his happiness only in animalistic pleasures? By freedom, should we only mean freedom in carnal desires? Or, is humanity essentially metaphysical and the spirit of God, while ?the body only an instrument for the soul's perfection, and our real life the eternal one

(وَإِنَّ الدَّارَ الآخِرَةَ لَهِیَ الْحَیَوَانُ)

"But the abode of the Hereafter is indeed Life!"(۱)

(وَما الْحَیَاهُ الدُّنْیا إِلاَّ مَتَاعُ الْغُرُورِ...)

"The life of this world is nothing but the wares of delusion..."(۲)

Since our real life is in the hereafter, we should exert all our efforts and focus all our attention in this world to that which will draw us toward that great felicity. Contrary to the schools of thought which hold that otherworldly bliss and this world cannot be combined together and whoever wants felicity in the hereafter should seclude and isolate himself from all things worldly, Islam fortunately regards it possible for man, especially in the social dimension, to attain both prosperity

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۱- Surah al-'Ankabut ۲۹:۶۵.

۲- Surah Al 'Imran ۳:۱۸۵.

.and welfare in this world and eternal bliss in the hereafter

Session ۱۳: Fundamental Difference in the Approach to Law between Islam and the West

point

Law is not supposed to endanger the interests of society—material or spiritual, worldly or otherworldly. Once a law is detrimental to any of these interests, it is not ideal and cannot meet the needs of man and society. Discussions have been held, but since there are still doubts in the minds of some professionals and authorities, it is .expedient to further explain certain concepts in this regard

Relationship between law and individual freedom

Mass media and public discourses today emphasize individual freedom as an issue above law and consider any law which restrains individual freedom as not credible. In order to clarify the issue further, we shall deal with some subjects as preliminaries to .the main topic. By doing so, it will be easier to grasp the authentic views of Islam

Western culture is based on a set of elements. The first pillar of this culture is a trend called "humanism". Inclination toward humanism in Europe and in the latter part of the Middle Ages was brought up through renowned writers and literary men of the time, such as Dante(۱) of Italy. In reality, it was a return to the pre-Christian era. As .we know, Christianity was born in the East, in Palestine in particular

Prior to the coming of Christianity in Europe, European societies were idol-worshippers. The most important empire at the time was the Roman Empire consisting of the Byzantium (present-day Turkey) and Western Roman Empire (Italy). With the exception of

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۱- It refers to Dante Alighieri (۱۲۶۵-۱۳۲۱), the Italian poet and writer well known for his epic poem La divina commedia (The Divine Comedy). [Trans.]

Jews, these people were all idol-worshippers. After the coming and dominance of Christianity in their society, distortions entered Christianity and, in one way of another, elements of idol-worship were adopted and European society accepted such a form of Christianity. An example of distortions in Christianity is the Doctrine of Trinity

and erecting of statues of Hadrat Maryam (Saint Mary) and angels in the churches. As a result, these churches are very similar to the idol-temples of the past.

Thus, Christianity in the Western world became a distorted form of Christianity which replaced polytheism. In reality, the government there was a worldly government devoid of spiritual values, though established in the name of Christianity, under the garb of divine rule for a heavenly and celestial mission. Under this guise with 'celestial' and 'heavenly' slogans, they committed such heinous crimes, that people feeling suffocated by these injustices and crimes, eventually returned to the life prior to Christianity.

The humanist thought, in truth, emanates from this return to man in place of God, this return to earth in lieu of heaven, and this return to worldly life in place of the otherworldly.

This is the kernel of humanism, which insists that we have to replace God with man. With the spread of the prevalent literature of the time, and through the efforts of the pioneering humanist writers such as Dante, the famous Italian poet and author, this trend gradually gained currency in all Western countries, and was propounded as a pivot with a wide array

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of dimensions and angles. Therefore, humanism is the mother of all other trends, which collectively constitute Western culture.

When we say "Western culture", we do not only mean the west in the geographical sense, nor all the people living in the Western world, because there are those who have wholesome religious inclinations and other schools of thought. What we call "Western culture" is the culture of societies that stride toward non-divine values and atheism, for in some Eastern countries like Japan the same culture may also be dominant. So, we will focus on "westernized societies."

Law in the humanist and liberal approach

The root of Western culture, thus, is atheism and disbelief in God who has been removed from the mind of man. God is replaced by 'man' who has become the epicenter of all values. Anchored in this thought, values are created by human beings and cannot have any reality beyond the ideas of human beings. The law becomes something enacted by man and none else has the right to determine it. It is not God .but human beings who chart their own destiny

These are the main elements of humanism which led to the emergence of other trends that gradually grew from the same root. Two of its extremely important trends presently pitted against Islamic culture are secularism and liberalism. Naturally, when God is removed from the life of man, religion as a matter of course will have no role in the serious issues of life. Therefore, religion must be removed from the social scene

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.and the realm of political and legal matters

On the basis of this thought, even those who intend to formulate values in the name of religion, have to consider them only for their houses of worship and personal life. That is, in reality, these values belong only to the private and personal lives of individuals and not to their social lives. This separation of religion and politics is among the serious issues of social life and is called "secularism". Following in its wake is the ."other product of Western culture called "liberalism

Once the axis of all values is man and no one else determines his destiny, it must be stated that man can do whatever he likes, and this is absolute freedom or liberalism. However, since there will be chaos if every person has absolute freedom in life so the need for law in society is accepted to prevent chaos due to extremism in following desires. After the establishment of order and the elimination of chaos, there will be no .more need for law and every person will be able to do whatever he wants

The onslaught of Western culture and its confrontation with Islamic culture

It can be observed that humanism finally ends up in secularism and liberalism, and these two constitute the main elements of Western culture. Whenever there is the

reminder, “Beware of the cultural onslaught of the West against your culture,” it refers to secularism and liberalism. This culture is flourishing in the West, and with the industrial and technological advancements, it is continuously and extensively attracting

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different societies and other countries. Sociologists rightly propound that Western culture is also exported with the export of its technology. This is a fact which must be .noted by developing countries

At this point, the question is: Can technology be accepted without the acceptance of its underlying culture? Presently, it must be stated briefly that along with the export of technology, Western culture is also exported to other countries, and more or less, all societies have been influenced by this culture. Even our Islamic society and other countries are not immune from this influence. (Of course, this external influence has been the result of complacency in preserving pristine Islamic values, and not because (.of the impossibility of distinguishing the two sets of values from each other

Unfortunately, we witness today forms of eclecticism in different classes of intellectuals which have paved the way for an eclectic synthesis between Islamic and atheistic cultures. This synthesis, however, assumes different forms at all levels. Western culture dominates in some cases, while Islamic culture dominates in others. Western culture has unfortunately fostered a musty cultural atmosphere and the .clear cultural atmosphere of pristine Islam cannot be seen in any part of the world

In our opinion, the cultural space of the Islamic Republic of Iran can and must clearly exemplify the Islamic culture and remove the dust of alien cultures. Such a capability exists in this political system and since the people offered everything they had for the sake of Islam and the Islamic

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culture, the Islamic Revolution poses as the greatest threat against Western culture.

The Research Department head of the Washington Institute for Near East Policy, recently said, “The Islamic Republic of Iran is an ideological threat with an ”.exceptionally strategic location

Obviously, what they are afraid of and regard as a serious threat for them is not economic in nature because their economy is stronger than ours. It is not a military threat either because they have a military power the like of which, quantitatively and qualitatively, does not exist in other countries. Instead, they are afraid of the intellectual, ideological and cultural potential of the Islamic Republic of Iran why they explicitly declare the Islamic Republic of Iran as a threat with unlimited and unique geographical advantages. As such, they leave no stone unturned in undermining this system, explicitly declaring that the wilayah al-faqih system cannot be penetrated .unless wilayah, which is its axis, is toppled down

The clergy and structural framework of Islamic culture

The essence of Islamic culture is God-centeredness in contrast to man-centeredness. Let us ask a few basic questions here: Should God be the criterion of values, or the desires of man? Does real sovereignty belong to God or the people? Does the process of thinking, thought, politics, law, and other aspects of our lives belong to God, or are ?related to the carnal desires of man

I know that stating this point has some unpleasant repercussions, but the greatest responsibility of the ‘ulama’ today is to elucidate the fundamentals of Islamic thought, so that

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by studying different views reflected in books and periodicals, people can distinguish the views derived from Islam and Islamic sources from others, and thus, the boundary line between infidelity [kufr], polytheism [shirk] and Islam become clear, and the proponents of atheistic and eclectic thoughts be distinguished from Islamic .scholars

This is the basic and main task of the ‘ulama’, and in this regard the Holy Qur’an says

that should learned men not expose religious innovations and reveal the truth, they will incur the curse of God, the angels and those who are entitled to curse:

(أُولَئِکَ يَلعَنُهُمُ اللّهُ وَيَلْعَنُهُمُ اللَّاعِنُونَ)

"They shall be cursed by Allah and cursed by the cursers."(۱)

So, our main duty is to clarify the concepts and identify the boundary between Islam and kufr and those ideas which contain eclectic and synthetic elements. The same eclecticisms and syntheses between truth and falsehood led to the occurrence of tragic events such as the event of 'Ashura, and prior to it, wars and conflicts between the Commander of the Faithful ('a) and others. Basically, throughout history the same eclecticisms, syntheses and ambiguities have been the source of corruption in Muslim society until the time when a man from the lineage of Ahl al-Bayt ('a) rose up and clarified so many Islamic concepts which people accepted and responded positively to his call and the glorious Islamic Revolution took place in Iran.

Obviously, as long as the zealous youth who sacrificed everything they had for the sake of Islam are present, they will

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۱- Surah al-Baqarah ۲:۱۵۹.

never allow the ideals of Islam to be undermined. Thanks to Allah, our Muslim people have a considerably high level of political and social awareness, are true to their duty and know what to do. We have not come forward to determine for them their practical duty. Our only duty is clear the intellectual and ideological atmosphere.

We only want to throw light on the theoretical and practical foundations of Islam. We want to show what Islamic culture is and how different it is from Western atheistic culture. We want to tell the people that humanism, secularism and liberalism are the main elements of the culture of atheism and infidelity, and in contrast, God-centeredness, nobility of religion, wilayah al-faqih, and legal limitation of the action of

man within the parameter of obedience to the One and Only God are the main .elements of Islamic thought

These two cultures are at odds with each other. The first culture invites man to absolute freedom including freedom from obedience to God while the second culture invites him to pure obedience to God. The first culture strives hard to remove God from the mind and life of man while the second, our culture endeavors to hoist the .banner of monotheism and preserve the idea of unity in the life of man

Nature of law and its special function in Islam and liberalism

According to Islam, law must also serve man's spiritual interests and welfare, and not only maintain social order and security. According to the liberal point of view, law has no other function but

to provide for means of enjoyment. As long as enjoyments and utilization of power do not endanger the freedom of others, law has nothing to do with it. So, the philosophy of law is only protecting the freedom of others, providing the needs of people and .allowing them to fulfill their desires

This is the goal of law in the humanist and liberal thought of the West, according to which the scope of law is very limited, and the government interferes nominally in the lives of people because the principle is that they should be free to do whatever they .like. As such, it would be correct to say that the preservation of freedom is above law

According to Islam, however, law is meant to institute the correct path of human life and guide society toward material and spiritual evolution. Also, the Islamic ruler is he who tries to materialize these interests in society and prevents whatever threatens them. Thus, there is a wide difference between the duty of the Islamic ruler and that of the democratic and liberal ruler, because the latter has to pave the ground for the people to fulfill their wishes and desires. He has to prevent chaos and disorder only and he cannot impose any other restrictions. Those who say that freedom is above law, particularly people of knowledge, education and research who regard

themselves as authorities, should be more careful and examine meticulously and .precisely the subject at hand

In essence, law determines a right

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for a person and a corresponding duty for others. The law is an instrument to restrict freedom. If every person is supposed to do whatever he or she likes, there will be no more need for law. Law comes to the fore whenever people have to dispense with some of their personal desires. If every person is supposed to do whatever he or she likes, what need do we have for law? So, the essence of law is that it determines a right for a person and its corresponding duty for others. Even if we have a law which .proves a right for all people, it will still encompass a duty

For example, if we have an international law which stipulates that every person has the right and freedom to reside wherever in the world he likes, its purpose is to prove a right for all people, but it is impossible to do so without determining a duty for others, because if everyone has the right to reside wherever he likes then the others have to respect that right and not disturb him. Thus, the law implicitly or explicitly contains dos and don'ts. Even in cases where it proves a right for everybody, its .purpose is that the others are duty-bound to respect and observe this right

Any law which stipulates that we have to do a certain thing implies that we should not act otherwise and this is an infringement of freedom and presentation of dos and don'ts. So, any

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law which says that no freedom should be limited contains a contradiction. Law is that which limits freedom. Therefore, freedom cannot be above law, unless we want to define a certain kind of freedom. In this case, we say that this freedom should be .observed as a law that is above other laws

However, if a law states that no restriction should be imposed on any freedom, it is

void and inherently contradictory and no reasonable person will ever accept it. Since the function of law is to limit freedom absolute freedom is a contradiction. But if they mean legitimate freedom, our question is: What do you mean by “legitimate ?freedom”? Who should determine which freedom is legitimate and which not

Relativity of legitimate freedom

Every system regards certain things as legitimate and rational on the basis of its particular culture even when others regard the same as illegitimate. So, absolute freedom is meaningless and no law can incorporate absolute freedom. Whenever it is stated in a legal text that the law has to guarantee legitimate freedom, the reference authority has to identify legitimate freedom and what determines a form of freedom as legitimate, rational and beneficial. In reply, it is said that it is the function of law to .identify legitimate freedom

At any rate if a person says that all kinds of freedom are permissible in society, it means that no law is necessary for the society. No reasonable person can talk as such, unless he or she is not aware of what

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.he or she is talking about

So, anyone who talks about freedom is referring to limited freedom. The question here is: who determines the scope of freedom and on what basis? If the determination of the scope of freedom depends on the whims of individuals, chaos will surely follow because everyone wants to secure his or her own interests. So, there must be someone to determine the scope of freedom. All laws need to be .determined by a legislator

Obviously, if the decision of the legislator is based upon the will of people and the criterion and basis of law is the will of people, the sensually indulgent will actually dominate. That is, it is the main axis of humanist and liberal thought because according to it the utility of law is nothing more than prevention of chaos and disorder and fulfilling popular demands. According to Islam, however, this line of argument is

.unacceptable because it has fundamental problems

Tension between Islam and liberalism

After accepting Islam, we cannot afford to accept liberalism. Once we accept that law guarantees the interests of people, we can no longer say that every person can do whatever he or she likes because these two premises are irreconcilable. Either God or man should be the axis. In other words, we should either be Allah-ist or humanist. One cannot be both man-centered and God-centered. Acceptance of these principles, apart from being contradictory and conflicting, is a form of shirk and once we reject .God, it is kufr and atheism

The West's humanist

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culture is atheistic because Islam, kufr and atheism, fundamentally conflict with each other. This is the reason why the American statesmen are of the opinion that as long as the Islamic system is prevalent in Iran, they cannot afford to reconcile with Iran, because these two views are contradictory; these two political systems are .irreconcilable

So, the main question is this: What is the salient feature of ideal law in different ?thoughts

Should law only establish order in society and fulfill individual demands and freedom as long as they do not infringe upon the freedom of others? Or, should law secure the real interests of people whether the majority of them agree or not? Of course, it will be implemented and executed once the people accept it, and if not, it shall only remain in paper. So, the people are in charge of the affairs but they should know the .basis of the law's legitimacy

Is ideal law the one which is based on the will of people and fulfills their demands, or is it the one that guarantees the welfare of people? These two views are irreconcilable and to mix them together is tantamount to creating a misty cultural atmosphere so

that those who intend to take advantage of it can catch fish in troubled waters. We have to clarify which is Islam and which kufr, so that everyone can choose whichever :he or she likes

(...فَمَن شَاء فَلْيُؤْمِن وَمَن شَاء فَلْيَكْفُرْ...)

Let anyone who wishes believe it, and let anyone who..."

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(wishes disbelieve it..."(۱

متاع کفر و دین بی مشتری نیست گروهی این گروهی آن پسندند

.The merchandise of kufr or religion is not without customer

.A group could choose this while another group could choose that

In any case, the people have to know which merchandise belongs to religion or kufr so as to choose one of them. It is incumbent upon us to clarify these notions and to cleanse these dusts from the foggy cultural atmosphere so that the people can choose consciously. There are those who have created such an atmosphere and want to make democracy and freedom prevail in place of religion. We should be vigilant; we .should be very careful in what we say and what we do

Legislation in Islam and democracy

We mentioned in the last session that conciliation between Islam and democracy in legislation cannot be established. Democracy means populism or government of the people. In other words, it means upholding the people's will and view. Now, the question is: Is credibility based on the will of people limited or not? When we say that the criterion and basis is the people's will, is it so even if it is against the will of God? Or, is the credibility of the will of people so perfect that it is not in conflict with the law and will of God? What is intended by this concept and terminology in the West is that the people's view is the main criterion and no other power in heaven and earth has the right

.Surah al-Kahf ۱۸:۲۹ -۱

to interfere in people's destiny and legislation for them. The law is what the people .want

At this point, this question is relevant: Is the consensus of opinion of all people the criterion of the law's credibility, or is majority vote enough? The consensus of opinion of all people is impossible in actuality, and if the majority vote is enough, what will be the duty of the rest, and should the majority vote be binding on them? In reality, today's democracy is a mixture of democracy and elitism. That is, the people elect an .elite group to enact laws for them

Now, if there is a conflict between the view of the majority of people and their elected representatives, which view shall prevail? Of course, the representatives usually enact laws in accordance with the will of the people; otherwise, they will not be elected in the next round of elections. Since they have to fulfill the wish of the people, they enact laws as per the desire of the people. There are also cases, nevertheless, .when the people's view differs with that of the majority of representatives

There are those who have explained that their aim is to replace the Islamic government—the government of the clergy and wilayah al-faqih—with a democratic government in Iran. "Democratic" implies that apart from the will of the people, ?nothing has a say in determining the law. Can the Muslims accept it or not

Meanwhile, to those who claim that Islam is harmonious with democracy, this question is

posed: Is the vote of the people binding even if it were against the definite decree of God, or not? If it is not binding, it follows that democracy has not been established. If the criterion of the law's credibility is the vote of the people even if it were contrary to

the definite decree of God, in this case democracy is not harmonious with Islam. Is ?Islam other than obeying God and the Apostle (s)? Do we have another Islam

Nowadays, it is said that there are many interpretations of Islam but the interpretation on the basis of which this Revolution has come into being is that the decree of God and divine values must prevail in society. The interpretation of those who staged this Revolution, have defended it up to the last drop of their blood and will .do the same in future

Thus, if democracy in the legislative dimension means giving precedence to the will of people even if the enacted laws were against the decree of God, such a democracy from the viewpoint of Islam and the Muslims is unacceptable. However, if democracy has another meaning such that while preserving the Islamic foundations, principles and values, the people could get involved in the legal and social issues of their society by electing their representatives and enact specific laws for certain circumstances of time and space. This is something which exists in our country. That is, the people elect .their deputies in the Majlis

The Majlis' deputies

engage in a debate and deliberate about a bill and afterwards ratify it. However, the .ratified bills are credible provided that they are not against the laws of Islam

In any case, for the people to elect their representatives to determine the variable laws according to specific circumstances of time and space is something existing in our country. The Imam endorsed the same process and our Constitution also approved it. If democracy in legislation refers to it, such a democracy exists and .nobody opposes it

The binding law in the Islamic government

An important question is that when the people's representatives ratify a bill in the Islamic Consultative Assembly, is this ratified bill credible because the people's

representatives have ratified it and in principle the people have elected their representatives for this purpose, or is it because the ratified bill is in a sense confirmed by the wali al-faqih? Theoretically, we believe that the foremost right that .[man should observe in his life is the right of Allah [haqq Allah

If we are supposed to observe certain rights, the right of Allah takes precedence and the foremost right of Allah over the people is the right of Lordship [haqq-e rububiyyat] which has two types, viz. cosmic Lordship [rububiyyat-e takwini] and legislative Lordship [rububiyyat-e tashri'i]. Legislative Lordship denotes that whatever God commands is obligatory upon man. So, if God prohibits a thing, it must not be done, and violation of the divine laws and decrees is an infringement upon the divine right of Lordship, and denying and regarding it as

.non-binding is a form of shirk

As such, the law which is pleasant to God will be credible in Islamic society. If God prohibited a law, it shall not be binding because the right of Allah is violated and by violating the right of Allah, the rights of men will also be violated. Does God acquire any benefit from legislation? In bidding and forbidding us and enjoining a decree, does God want anything other than the welfare of man? So, whenever an act is against the dictum of God, it is also against the welfare of man. In conclusion, the main pillar of the law's credibility is that once the preservation of the interests of man .is endangered, the right of Allah is also violated

As such, such a law shall not be binding. It is on this basis that after the ratification of the bill by the people's representatives, there is another filter, and that is, certain lawyers and fuqaha have to adapt a bill to the religious standards and check whether .it is against the law of God or not. This is the function of the Council of Guardians

If the credibility of law depends only on the people's vote, what are the fuqaha of the Council of Guardians then supposed to do? The people have cast their vote. Their representatives have ratified and enacted the law they requested and the said law

has become binding! In the Islamic Republic system, the first and foremost function of the Council of

Guardians (and of course, they have other duties) is to check the conformity of the statutory laws of the Majlis with Islam; that is, what the people have voted for .through their representatives

One reason why you see the Westernized elements, and those who pour water into the enemy's watermill, talk about the abolition of the Council of Guardians is that they want the absence of a filter that checks the conformity of laws with Islam. Today, I am making this statement for you to be informed—perhaps you cannot believe, and God willing, it will not happen—that the liberals and Westernized elements are trying to remove Islam and wilayah al-faqih from the Constitution. By His will, God will not .give such a chance to the enemies of Islam and the Islamic system

Session ۱۴: The West's Materialistic Approach to Law

A review of the previous discussions

As stated before, according to Islam, the society is in need of law—law which guarantees man's prosperity in this world and the hereafter. Also, the law enforcer must be a person who is totally aware, concerned, pious, just, and capable of adapting laws to specific cases and circumstances—traits which are required of a leader. This is the essence of the Islamic theory on government which our society knows as the theory of wilayah al-faqih. In elucidating this theory, it is stated that man can possibly live alone in a jungle or cave, but there will never be any material and spiritual advancements except under the aegis of social life. All the emergent sciences, arts and technology

.are products of social life

Even those who have been engaged in self-purification and moral refinement, and in

constant spiritual wayfaring and mysticism, have attained such stations under the auspices of social life and learning at the feet of spiritual masters and moral teachers. So, had it not been for this relationship among people, there would never have been any material or spiritual advancement. Social life, therefore, is indispensable for man. For individuals to acquire the maximum benefits from this divine grace, rules and .regulations must necessarily be established in their social life

Obviously, if there were no rules and regulations, society would plunge into chaos, degeneration and disorder, and man's life would turn into that of animals. Of course, some people imagine that human beings are wolves for one another and must be regulated by means of brute force. Such an attribution to man, however, is an exaggeration. Nevertheless, there are inclinations in man which, if not controlled by .the institution of rules and order, will drive society toward corruption

The question consequently is: Which type of rules possessing which qualities can guide human society toward prosperity in this world and the hereafter? In brief, it is said that some believe law should only ensure security and order in society and it has no other function. Others believe that in addition to order and security, law should also guarantee justice in society. Therefore, in defining law, different views are posed which were stated in brief. Along this line, some have said

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that laws should not be executed in society, believing that freedom is a manifestation of the natural rights of humankind and no law can deprive human beings of this .natural right

We have said that these views are being expressed by different figures with diverse motives, and I have no idea to which group the exponents of these issues belong, what motives they have and why they are raising these issues. As a student of Islam who is dealing with religious sciences for the past ۵۰ years, I can only express views and talk about the philosophy of law or politics from the Islamic viewpoint. Maybe most people know that I do not belong to any political group, party, organization or .faction

I am dealing with subjects only because of my religious obligation. If some people want to bring about an unwholesome atmosphere, present wrong interpretations or sometimes distort issues, quote statements out of context and misconstrue and exploit them, we have no business with such people. Such individuals always exist in society and will exist in future, too. Of course, sometimes presentation of a view elicits .both proponents and opponents which is but natural

If you can remember, I have emphasized time and again that we sometimes use a term which has no specific and definite meaning. Everyone has his/her own understanding of it, and this leads to error and makes the listener fail to understand what the speaker means by it. In some cases, it ends up in a

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fallacy. There are times when a fallacy is unconsciously committed and there are also times when a person consciously commits a fallacy. Among such terms is "natural right" which is raised in this context. It is essential to know what "right" is and what is ."meant by its being "natural

Natural law school

Those who are familiar with the philosophy of law know that one of the schools of legal philosophy is "the natural law school". Since time immemorial and since the beginning of the history of philosophy, a number of philosophers have engaged in this .discussion

Some philosophers of ancient Greece believed that human beings have rights which nature has endowed them with and no one can deprive them of these rights because human nature has affirmed them for the people. On this basis, they have arrived at certain conclusions which are apparently inconsistent with one another. As such, one of the notable fallacies known as "naturalistic fallacy" has emerged in the philosophy .of law and ethics

Some have also claimed that a human being has multiple natures; for example, the 'white' have a certain nature while the 'black' presumably have a different one. The

black are assumed to be physically stronger while mentally weaker than the white. A similar view has been quoted from Aristotle. (One should not make a mistake about it. I personally do not accept these views; I am just quoting them.) He says that since the black are physically stronger, the only work they are supposed to do is

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!physical labor

Since the white are mentally stronger, administrative jobs of society must be entrusted to them. In sum, some human beings have been created to render services to other human beings. As such, slavery is a "natural law". At the moment we prefer not to engage in the discussion of whether or not the nature of black and white has .any such standing. It is itself a lengthy discussion for which we will need more time

In any case, the most rational, sensible and wholesome subject on natural law ever been discussed throughout history is that if there were something called natural need of all human beings in general, then it must be met. Man must not be deprived of the .general need of his nature. Up to this point, this subject is acceptable

We also believe man must not be deprived of the natural needs of all human beings. in confirming this point, there are also rational arguments that presently we are not going to state them. Yet, the question is: What is meant by this need? All human beings are in need of food. Therefore, no man must be deprived of eating food. He must not be deprived of speaking; that is, his tongue must not be cut off, or let him take a medicine that would deprive him of speaking, or similar other acts. It must be .noted that they have particular aims in churning out such logic

Scope of human rights in the West

We all know that in recent times an issue

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called the (Universal) Declaration of Human Rights was brought up. At the outset, this

declaration was signed by the representatives of ۴۶ states. Later on, other countries joined them by signing the same, and as a result, the declaration became a "universal" declaration. In this declaration, rights for man have been enumerated, such as the freedom of expression,(۱) freedom of choice of residence,(۲) freedom of choice of occupation,(۳) freedom of choice of religion,(۴) freedom of choice of spouse,(۵) and .others

Concerning this declaration, there were discussions raised by legal experts who were familiar with the philosophy of law (Muslim legal experts in particular). Among questions raised were the following: What is the philosophical foundation of rights of human beings being regarded as absolute and believing that no one should limit them? What are the arguments in their favor? Is there a specific limit, or not? Are these rights absolutely above law, and is no law authorized to set a limit on these ?rights

Is there any law permitted to determine the limit of freedom of expression? Is there any law permitted to impose a limit on freedom to choose one's spouse? Is there any law allowed to state that you have no right to choose your residence beyond the established limit? Is there any law permitted to determine the specific limits of these ?rights

When we say that such and such a subject is a natural right and natural need of man, ?does it mean that this right has no limits

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۱- Article ۱۹ (Freedom of opinion and information). [Trans.]

۲- Article ۱۳ (Right to freedom of movement and residence in one's own country and to leave and return at will). [Trans.]

۳- Article ۲۳ (Right to work and fair pay for work). [Trans.]

۴- Article ۱۸ (Freedom of belief and religion). [Trans.]

۵- Article ۱۶ (Right to marriage and protection of family). [Trans.]

If there is a limit, who is the one determining its limits. The truth of the matter is that

as far as I know, most of the authors of the declaration themselves and those who .have interpreted avoid giving succinct answers to these questions

Finally, what is meant by saying that freedom is above law? Is there any freedom, which no law has ever been authorized to impose a limit on? Are we not supposed to ask, "What is the end point of this freedom"? Does freedom of expression mean that anybody can say whatever he wants to say?! We can observe that no country has ever granted such permission. In fact, every country is of the opinion that freedom of expression has limits. For example, insulting anyone is unacceptable in all parts of the .globe

Emergence of contradictions on scope of freedom

The question on the scope and limits of freedom and on who determines it has a general answer, and that is, once it is said that freedom is above law and should not be limited, it is referring to legitimate freedom. Some add, "Legitimate and rational .freedom," while others have added other terms

In some paragraphs of the Human Rights Declaration, the expression "moral' exists, which focuses on the observance of rights along with moral standards. These paragraphs more or less contain ambiguous concepts. It is obvious that what they mean by "legitimate" is not as Islam has prescribed it. It is true that linguistically speaking, the words mashru' [legitimate] and shari'ah [religious law] have the

same root. However, mashru' [legitimate] in the legal and political context means qanuni [legal] and that which is regarded by the government as authoritative and valid .[mu'tabar], and not that it is definitely religiously permissible

This subject should not confuse some of the believers, and mistakenly suppose that when we say legitimate rights or legitimate freedom, we mean those determined as such by Islamic law. Instead, what is meant by "legitimate" are the legal [qanuni], authoritative and valid [mu'tabar] laws [huquq], while "illegitimate" [ghayr-e mashru'] .are laws that infringe on the rights of others

But this question arises: Which are the legitimate and rational rights and which are the illegitimate and irrational ones? Who is supposed to determine them? The only reply is: The law determines the details and limits related to freedom, and it is exactly here that the initial contradictions and inconsistencies can be detected. On the one hand, they say these rights and freedom are above law and no law is supposed to limit them. But when we inquire as to whether freedom is absolute or limited, they say that it is not absolute and since they can not give a correct response, they say that what .they are referring to is legitimate freedom

When asked, "What is meant by 'legitimate'?" They reply that "legitimate" is anything that the law has approved. It is this law that determines the limit of freedom. They forget they just said that freedom is above law. Confused, they assert that all

human beings and rational individuals know what is meant by legitimate and rational .freedom

We say that if all people and rational individuals know a certain subject, dispute concerning it is inconsequential because we and all Muslims of the world who constitute a population of over a billion, are among the rational ones. And they say that in Islam some forms of freedom have been recognized, but some have not been recognized. In the end, keeping in view the knowledge and research that we have, this question has remained unanswered. The philosophers of law have no categorical .answer as to what or who sets limits on freedom

Scope of freedom in human rights

The commentators of the Human Rights Declaration and philosophers of law have written on the philosophy of law about the limits of freedom. The first thing setting a limit on individual freedom is the freedom of others. That is to say, an individual is free as long as he does not disturb the freedom of others and does not infringe on the rights of others. This is the most important argument that philosophers of law have .ever advanced and insisted on

In fact, in the Human Rights Declaration, which is like the gospel of Western law philosophers, it has been emphasized that any person is free as long as his freedom does not interfere with that of others. However, if the freedom of a person creates disturbance for others, he is deprived of such freedom. And it is at this point that freedom

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.is limited

At this juncture, many questions can be posed, among which are the following: Firstly, in which areas and categories do you conceive of disturbance on the freedom of others? Are these disturbances confined only to material affairs or spiritual affairs are also included? Is opposition to religious sanctity equivalent to opposition to their freedom, or not? Western liberal thought states: limitation of freedom does not include spiritual affairs, for opposition to spiritual affairs does not impose limits on .freedom

Thus, when it is said that Islam regards the one who insults God, the Prophet (s) and the sanctity of Islam as an apostate [murtad], and for instance, declares the killing of Salman Rushdie for acts of blasphemy against the sanctity of Islam, it does not accept this stance and states that one is free to express one's opinion. He is an author and can write whatever he wants; you can also write whatever you like. Our question is: Are the subjects of this book (The Satanic Verses) not an insult to the sanctity of .others' religious feelings? Certainly, you cannot say that they are not an insult

Is freedom of expression so broad that a person in that part of the world can afford insulting the religious sanctity of over a billion Muslims who love their Prophet (s) more than they love themselves and are ready to sacrifice hundreds of their loved ones for his sake? Do they consider this act as freedom of expression?! If what is

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meant by freedom of expression in the Human Rights Declaration is such a thing, then

we straightforwardly and unhesitatingly do declare that we do not acknowledge this .declaration

Problems of categorizing freedom in the West

Our fundamental question to those who consider as valid this declaration and regard it as equal to the venerable gospel is this: From where has this declaration gained validity? Does it have a rational basis? You have to argue with reason. It cannot easily be said that freedom is above law and it cannot thus be limited. If you say that it earned validity because the representatives of countries have signed it, then it becomes clear that its validity depends upon our signature. Now, what about those who have not signed this declaration, or have signed it on conditional basis? Are they ?also obliged to unconditionally abide by it

Every society has a particular culture, things considered sacred, and laws, and in one of the provisions of this Human Rights Declaration it is stipulated that every person is free to choose his own religion. Well, once the person chooses his own religion, he is supposed to observe its decrees. Choosing one's religion does not mean that he has to merely utter a statement but he must be free to observe the precepts of his chosen .religion

Now, we freely chose Islam; Islam states that anyone who insults the holy personages of Islam is sentenced to death. Western culture states that these decrees of Islam are against the natural rights of human beings, because

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every human being has the right to say whatever he likes. It is clear that these two items (freedom of expression and religious freedom) stipulated in the Human Rights .Declaration contradict each other

Let us return to the first issue: on what basis does anyone have the right to say whatever he or she likes? In your own countries why do you not permit anyone to say whatever he or she wants to say? If a person makes an insulting remark, you sue him in a court of law. If he says that it was an exercise of his freedom of expression and he

can express whatever he likes, on what grounds should he not utter such things? So, it becomes obvious that the freedom of expression is not absolute and certain things .must not be uttered

All reasonable persons acknowledge that freedom is not absolute; otherwise, no society will remain for a law to govern and rights to be observed. Thus, no one accepts that freedom is absolute, but the question at this point is: what is its extent? Freedom of expression is mentioned as an example and you cannot claim that it is without restriction and neither has anyone claimed so. In practice, no state accepts that anyone may utter or write whatever he or she likes, be it an insult or calumny, misguiding others, or, against national security. Verbally, however, they say that it is .debatable

If the discourse is free, we will also engage in a dialogue. If

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permitted to ask a question, our questions will be: What is the basis of man's freedom to say whatever he likes? If freedom is indeed absolute, why do you yourselves not accept it? Regarding insults, calumny and defamation, do you yourselves accept that there is absolute freedom? You accept that freedom is limited. Now, to what extent is ?it limited? So long as you like

When you say that one should not infringe upon the freedom of others, our question is: What is the extent of the freedom of others? Do you regard the scope of freedom only to the extent that it does not harm the property, life and honor of others? Is harming their soul, spiritual life, ideals, and sanctity, forbidden or not? If these are forbidden, then we have no point of difference in this matter. We also say that the freedom of expression has limitations. One should not insult religious sanctity for this .is a violation of the rights of others

Islamic law's concern for spiritual and material interests

Continuing the discussion, the question now is: What is freedom according to the Islamic perspective and what is its scope and limit? The existence of law in society is

meant for the attainment of objectives in social life. Without social life, the material and spiritual interests of individuals cannot be ensured. One of the blessings of social life is that man can benefit from God-given material blessings such as scientific, technological and technical know-how, as well as gnosis and spiritual aphorisms under the supervision of spiritual

.masters and teachers

Acquisition of this knowledge and gnosis is possible only in social life. As such, law should guarantee human progress along material and spiritual lines, for merely establishing social order is not enough. For example, if two persons, without harming any one else or disturbing social order, agree to kill each other, are they doing a good ?thing

If you can remember, sometime ago, in an American city, a group of people burned to death, and it was reported that these people were members of a religious sect who regard suicide during their rites as the way to perfection! Of course, there is room for question and doubt about this issue. There is a possibility that as this group was regarded antagonistic to the government, it was the American authorities who exterminated them all. Assuming that this group really committed suicide according to ?their religious conviction, was the act proper

Can it be said that since it brought no harm to others and they agreed to commit suicide together there is nothing wrong with what they did? Should the government tolerate such a practice? Should law allow it? If the only criterion is the maintenance of order and security, then this order and security can be established through mass .suicide!? And law has no other function

According to the liberal perspective, the only function of the state is the establishment of order and law is only meant to prevent chaos and nothing else. The outcome of this mindset

is what can be witnessed in Western countries such as moral, sexual, social, and other corruptions. This predicament is the result of their belief that the state has no right to .interfere in the rights and lives of individuals. It has to establish order only

The state maintains that only a policeman should carry arms inside high school campuses so that students do not kill their fellow students or their teachers. The establishment of order and security only demands that. Is this the only function of law? Or, does law perform other functions such as fostering an atmosphere that leads ?to the advancement and exaltation of man? Should it also prevent moral corruption

We conclude that law should also take into account spiritual interests. All that harms spiritual interests such as honor, divine guidance, viceregency of Allah, and humanity, and material interests such as the wellbeing and security of people, should be forbidden. Is society not formed for the advancement of humane goals? Is it meant only for the attainment of mere animalistic objectives?! The law should guarantee .both the material and spiritual interests

As such, drug addiction or injecting anything poisonous is forbidden because it makes man sick, annihilates him and harms his material interests. Now, if a person becomes addicted to this stuff without showing animalistic acts and is apparently healthy but loses his senses and understanding, should he be permitted to do so? And if there be another evil practice leading to a loss of faith and spiritual

sanity, should it not be forbidden? Does it not destroy the humanity of man? If certain people create an atmosphere in society that keeps the people away from religion, ?should they be free

(وَصَدٌّ عَن سَبِيلِ اللّهِ وَكُفْرٌ بِهِ وَالْمَسْجِدِ الْحَرَامِ)

But to keep [people] from Allah's way, and to be unfaithful to Him, and [to keep" (people from] the Holy Mosque."(۱

That which obstructs the path of spiritual evolution, advancement and acquaintance with the truth of religion and negatively portrays religion in the sight of the youth is forbidden because it is harmful for humanity at large. How comes that whatever is harmful for his physical aspect is forbidden but whatever is detrimental for his soul is allowed?! The (Western) world says, "Yes" but Islam says, "No". We believe that law must consider spiritual interests as more noble and important than material interests. (We should bear in mind that what we are talking about is related to an academic discussion and may not necessarily have actual manifestations. Thus, it should not be misconstrued that in my opinion, the economy should be neglected.)

Preeminence of spiritual and religious interests over material interests

If we were put in a situation where we would have to choose between two options: economic progress with religion at stake; and advancement in religion with our economy being affected to some extent—which option would we choose? We believe that the advancement of Islam also guarantees economic progress in a long-term program provided it is implemented perfectly.

Nonetheless, it is possible that it negatively affects the economic

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۱- Surah al-Baqarah ۲:۲۱۷.

interests and puts individuals in a difficult situation for a short-term. Now, if the situation be such, with regard to the raised arguments, which one should be given preeminence over the other—religious interests or worldly interests? For us religious interests are preeminent, as stated in this verse:

(فَإِنْ عَرَضَ بَلاءٌ فَقَدِّمْ مالَکَ دُونَ نَفْسِکَ، فَإِنْ تَجَاوَزَ البَلاءُ فَقَدِّمْ مالَکَ وَ نَفْسَکَ دُونَ دِینِکَ)

If your life is in danger, sacrifice your property for your life. If you have to choose, between remaining alive in unbelief and being slain in faith, sacrifice your life and property for religion.(۱)

.At this point, if man is killed, there is nothing wrong

(قُلْ هَلْ تَرَبَّصُونَ بِنا الاّ اِحْدَى الْحُسْنَيَيْنِ)

"(۲)Say, 'Do you await anything to befall us except one of the two excellences?'"(

What is wrong with a person being slain in the path of religion? He will go directly to heaven. But if he supposedly lives without religion for another hundred years, what does he get besides a daily increase in suffering? Thus, for Muslims, religious and spiritual interests are better than material interests. Therefore, Islamic law has to give priority to spiritual interests. Our discussion is based upon reasoning and we do not impose our reasoning upon anyone. One may accept it if he wants to or reject it. .None of these arguments are based on anything but logic

Difference between conditions and scope of freedom in Islam and liberalism

In our opinion, therefore, freedom is restricted, as all reasonable people in the world say. The difference is that for them the limit of freedom is infringement upon

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۱- .Ibn Abi'l-Hadid, Sharh Nahj al-Balaghah, vol. ۸, p. ۲۵۰

۲- .Surah at-Tawbah ۹:۵۲

the freedom of others while for us it is infringement of any social interest. The people are free to talk, eat, work, engage in trade, make a living, discuss, travel, sign a contract, do whatever they want, to such an extent that it does not jeopardize the material and spiritual interests of society. Whenever freedom is harmful to the material interests or the spiritual interests of society, it is forbidden. In both cases, freedom is prohibited. This is our reason and logic. If there are those whose logic is .better than ours, we are ready to listen and benefit from it

As far as we know, no philosopher has so far been able to give a logical dimension to the scope of freedom. If there are allegorical expressions in our Constitution, common laws, words of distinguished 'ulama' or even the sayings of the eminent Imam (q),

they should be referred to the authorities so that they can interpret them. We also support the rule of law. Our adherence to laws in the Islamic country is stronger than that of others. Our distinction is that we regard laws as binding because the wali al-faqih has approved them. As the Imam said, "To obey the [injunctions of the] Islamic state is wajib." Meanwhile, some say that these laws are binding because the people have approved them. Now, which logic is stronger? Which one is convincing and has ?the upper hand

When they say to a person that since the people have approved

a certain law, it is incumbent upon him to act upon it, he may possibly say that he has not voted for the representative (who was among those approving the law), or that he is not pleased with the law! But when the Imam said, "When the Islamic state gives an order, or if the Islamic Consultative Assembly ratifies something, one should obey it as a religious obligation," you have to see which basis will work better. Do we have a more "modern" law, or do they? Freedom among all nations and all rational people is limited, but according to Islam, all people are free as long as they do not harm the .material and spiritual interests of society

Session ۱۵: The Islamic Government, Challenges and Cultural Plots

A review of the previous discussions

Our concern was to elucidate the Islamic political theory which states that the law which is either directly stipulated by God the Exalted in the Holy Qur'an or enacted by the Holy Prophet (s) and the infallible Imams ('a), or by a person designated by an infallible Imam ('a), is binding in society. In any case, the law must be pleasing to God .and in accordance with Islamic standards

Those who oppose the idea that religious laws must rule and be implemented in society can be divided into three. The first group essentially does not accept religion. Such people do not want particular religious laws to be implemented in the country. .Thank God such people are very few in our society

The second group is of the opinion that the

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jurisdiction of religion is separate from that of society and politics. It regards religion as concerned with personal affairs and the relationship between God and man, saying that problems pertaining to social life have nothing to do with religion. This trend is generally called "secularism" or the separation of religion from the problems of life.

The third group really believes that Islam has sociopolitical laws but it is unconsciously influenced by eclecticism and Western culture. Some of its views are inconsistent with Islam.

The clergy and its crucial duty of guidance

In any case, in accordance with the duty set by God, the Exalted, we need to point out these truths as much as possible in order to clarify the Islamic stance and prevent intellectual, ideological and religious deviations. Some of our friends and well-wishers think that engaging in these discussions in these particular sociopolitical conditions is unnecessary, while others think that it is harmful, as it encourages differences in opinion and conviction.

They imagine that the more we strive for intellectual and ideological unity and avoid issues that lead to dispersion and separation is beneficial for society. Out of good intention, there are also some who say, "Instead of holding such discussions, engage in more positive activities in society, assume positions of authority and render services which are beneficial for society."

Let me say to these colleagues most of whom are well-wishers and with good intentions: Our concern is the religious duty which God, the Exalted, has placed upon our shoulders. It is incumbent, first and foremost, upon the prophets

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and infallible Imams ('a) and then upon the 'ulama'.

It is a tortuous path full of dangers, not mere verbal opposition, but accompanied by abuse, calumny, foul language, and at times, exile, imprisonment, torture and libel, and sometimes, even assassination. These difficulties have been experienced throughout history by the prophets and infallible Imams (‘a). On our part, we have no choice but to tread this path even if our friends reproach and criticize us. As God, the Exalted, says:

(إِنَّ الَّذِينَ يَكْتُمُونَ مَا أَنزَلْنَا مِنَ الْبَيِّنَاتِ وَالْهُدَى مِن بَعْدِ مَا بَيَّنَّاهُ لِلنَّاسِ فِي الْكِتَابِ أُولَئِكَ يَلعَنُهُمُ اللّهُ وَيَلْعَنُهُمُ اللَّاعِنُونَ)

“Indeed those who conceal what We have sent down of manifest proofs and guidance, after We have clarified it in the Book for mankind—they shall be cursed by Allah and cursed by the cursers.”(1)

Those who are aware of the truth of religion and conceal it on account of personal gains and group interests will incur the curse of God, the angels and holy saints [awliya’]. As mentioned in the noble hadith,

إِذَا ظَهَرَتِ الْبِدَعُ فِي أُمَّتِي فَلْيُظْهِرِ الْعَالِمُ عِلْمَهُ وَ إِلاَّ فعَلَيْهِ لَعْنَهُ اللهِ...

“When innovation in religion [bid‘ah] emerges in my ummah, it is incumbent upon the scholar [‘alim] to reveal his knowledge (of the religion) otherwise the curse of Allah shall be upon him…”(2)

Based on this, we have two options: Either we endure the reproaches and criticism of friends and the calumny of enemies, and in return, seek the pleasure of God, or prefer the praise of some people and thus, incur

1- Surah al-Baqarah ۲:۱۵۹.
2- Bihar al-Anwar, vol. ۵۷, p. ۲۳۴.

the curse of God. We prefer to endure slanders and not incur the curse of God. Thus, this crucial responsibility is placed upon our shoulders and for the likes of us, dealing with these matters is more urgent than anything else.

It is true that today we have problems along our borders, and, in future military dangers may arise. It is true that members of our consular staff and ۳۵ drivers are held captive by the deviant and retrogressive Ṭaliban in Afghanistan, which has upset our nation and government and prompted public demonstrations, protests and been .referred to international commissions

In our opinion, however, the danger of the capture of ۴۰ to ۵۰ Iranians by enemies is not greater than the danger of the capture of thousands of our Muslim youth in universities by the agents of America. The bondage of our youth by the agents, functionaries and proponents of Western culture is far more dangerous than the capture of a number of Iranian citizens by a deviant group. It is true that they are .experiencing difficulties and tribulations but they shall be rewarded by God

When our dear youth, especially the children of martyrs and freed prisoners of war, however, are on the verge of intellectual and religious deviation and bondage, what ?could be more serious? Should no one feel a sense of responsibility in this regard

Some people may say, “You are thinking erroneously.” Well, if man is free to express) his views, at least as a person who

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is engaged in religious and Islamic sciences for more than ۵۰ years I also have the (.right to express my views

Our concern is their opposing our claim that Islamic and divine laws must govern society, and raising doubts already mentioned in previous discussions. They say that implementing the laws of Islam in society is discordant with the natural rights of man. One of the natural rights of man is freedom which is manifested in freedom of .thought, expression, religion and political views

By nature, every person has the right to choose whatever religion he or she likes, change his or her religion; express and promote any view and belief he or she has. If Islamic laws must govern this country, there will be some who do not want these

laws. They all have the right to express their views, cast their vote and say that "We do not want these laws". Those who totally reject religion to express such a view is not surprising, but unfortunate when the same is sometimes expressed by those who claim to be religious, and worse, even use an Islamic appellation for themselves, and introduce themselves as followers of the Imam!

Promotion of destructive Western freedom in the national press

This state of affairs has reached a point where it is posed in newspapers—sometimes with a serious tone and at times as humor, sometimes as a quotation from a certain writer, a young man or a woman—Why, in principle, a man can have many wives while a woman cannot have many husbands. They also suggest

that a communal wedding be held and a number of men share a single wife!

It is worth noting that these issues are not from periodicals of communist countries. Instead, such issues are presented in newspapers of the Islamic Republic! There is also someone who delivers a speech in an Islamic university, which he describes as an Islamic institution, in which he says, "Today, opposing a leader or the Prophet is nothing. Even if people want to demonstrate against God, no law has the right to prevent them!"

If these words are uttered in a non-Muslim country or by a person who is an infidel or a polytheist, it will not surprise. But in reality, these words have been uttered in the Islamic Republic, under the sovereignty of Islam and under the rule of wilayah al-faqih, in universities, and no one is confronting them. Sometimes, a student protests but it is of no avail. It is for this reason that I feel a sense of responsibility and I hereby declare that these utterances are dangerous innovations in religion and are repugnant to the foundation of Islam.

If there are people who want to make these utterances in their speeches, at least they should not do so in the name of Islam, so that the difference between Islam and kufr remains clear. This freedom of religion and freedom of expression is a fruit of

Western culture which is deceitful and ostensibly pleasant but innately venomous. It ,might be appropriate for Western culture

.but certainly not to this extent for our Islamic culture

Religion in Western culture today, is a matter of taste, like inclination toward a political party. If for example, in a country a number of political parties are already functioning and the following day, another party is registered and announces its existence, transferring from one party to another, is not surprising. The same applies to religion in the West, especially in America, where every day a new religion or sect is founded. This is astonishing for us. More than a century ago, someone named "Bab" emerged saying, "I founded a new Islam and the Imam of the Time expected by the Shi'ah has ".already appeared

This set everybody wondering how someone could claim that a new religion had emerged. (Of course, outside Iran particularly in America, this corrupt sect is publicized as "modern Islam", where it is not surprising at all.) But every year, a number of religious sects are founded in Canada, America and European countries. For instance, the main Christian denominations are Orthodox Christianity, Catholicism and Protestantism. Protestantism alone has more than ۵۰۰ sects officially registered in .Western countries

Last year, I visited some Latin American countries. I noticed that several new sects were founded whose preachers were busy propagating their respective sects. Such innovations are very common there. It is announced in a newspaper that a priest has founded a new religion or a new sect, and people easily transfer from one sect to another. This is what

."they called "freedom of religion

Islamic Protestantism" as a conspiracy against Islam"

Some expect that there shall also be freedom for the religion in the Islamic Republic of Iran. Thus, for a long time they have suggested the emergence of “Islamic Protestantism”. As far as I know, it was Fath-‘Ali Akhundzadeh (Akhundof) who first proposed that there should be a “protestant sect” in Islam. After him, other “intellectuals” promoted this in their speeches and books, suggesting that “Islamic Protestantism” should come into being in Iran.

Today, in America, it is propagated that there should also be a new “Martin Luther” in Iran, a new “protestant religion” and a “modern Islam” which is consistent with modern conditions, insisting that the Islam which came into being ۱,۴۰۰ years ago is of no use in life today!

One should not be surprised if America makes such a suggestion because their goal is to obliterate Islam. They themselves have said that for this task they have a particular program and allotted a specific budget. They have confessed repeatedly that their Archenemy at this stage is Islam.

But what is surprising is that gradually this propaganda is gaining ground in our country, and there are those who explicitly question the essential and fixed laws of Islam in newspapers and magazines. For instance, they question the injustice between man and woman in laws of inheritance, woman given no right to have many husbands, or the like, and sometimes, they ridicule the essential laws of Islam.

As you may recall, during the initial years after the

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victory of the Islamic Revolution, when the bill regarding the law of retaliation [qisas] was passed, they said, “The bill regarding qisas is inhuman,” and the Imam (q) said that if they had made this utterance consciously, their Muslim spouses would be haram for them and the right of ownership for their property would be transferred to their Muslim inheritors and their lives would no more be held in honor. Of course, laws pertaining to apostasy [irtidad] are not only confined to the person who denies qisas and its laws.

Denial of any essential law is tantamount to apostasy. But we can observe today, that without any shame and hesitation, individuals explicitly reject the essential laws of Islam in newspapers and magazines of the Islamic Republic, and sometimes in newspapers founded through grants from the Muslims' public treasury. Some people should remind them that the decree of the Imam pertaining to the deniers of qisas is .not only confined to the issue of qisas

It can sometimes be observed that laws unanimously accepted by the Shi'ah and Sunni fuqaha and are not opposed even by the Sunnis are questioned and mocked! ?Should the concerned authorities not address these problems

Should they not be reminded that such dangers pose threats to our young generation? Those who have neither heard the speeches of the Imam nor studied his lectures can be influenced by the questions raised in newspapers published in the Islamic Republic and think that the Islamic political system and the Islamic

state also agree with these ideas and that the same are Islamic ideas! There should at .least be a venue to announce that these ideas have nothing to do with Islam

The notion that religion is a matter of taste and that man can choose whatever religion he likes and then change it once he no longer likes it, is dangerous. In Western countries, sometimes a teenager goes to the church with his friend who says, "I like .so-and-so church more," and thus changes his religion

The said teenager will also be influenced and in following his friend, he will also change his religion. They think that religion is like a garment which a person can wear today and change tomorrow. Islam does not endorse the view. "Choose whichever you accept for the state guarantees this freedom as a natural right of the people." Islam regards religion as the most important matter in the life of man and that felicity '.and perdition in this world and the hereafter depends on 'choosing the right religion

So, the reason behind these discussions is the existence of such dangers which we

can feel, discern and even witness sometimes, and by struggling against them .discharge our duty

Real meaning of natural right

The best definition of "natural right" is that it is a need demanded by the nature of man and no one should deny it. So, talking and expressing views are among the demands of man's nature and no one should prevent them. We have said that eating and drinking

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are also among the demands of man's nature. In fact, it is the most natural right of every man to eat, but merely because eating is a demand of man's nature, does a person have the right to eat anything that belongs to others? Is there no law that specifies which is halal and which is haram, and whose property a person has the right ?to consume and whose property a person has no right to consume

Is there any reasonable person who can accept the notion that man is free to take whatever he likes from anybody. Talking is also a natural right of man, but it does mean that he can express anything everywhere and for whatever reason and motive. How can the law afford to dictate what things to eat or not to eat, and how can religion decree that pork and alcoholic beverages should not be consumed, when eating and drinking are natural rights of man? The same is the case with talking: The .subject of talk, its time, place, and limitation are determined by law

More or less, this idea has been accepted everywhere in the world. Regarding religion, however, the Westerners say, "You can say whatever you like because religion is a personal matter of taste which is irrelevant to the serious concerns of life and at most, it is related to the relationship between man and God and this relationship assumes different forms. Choose whatever form of relationship with God .you like

This

religion is a straight path; that religion is another straight path. Idol-worship is a straight path; Islam is also a straight path!" But what Islam states is something else; of course, we mean Islam which has been propagated by Hadhrat Muhammad (s) and not the "modern Islam" to be brought by Babs and Martin Luthers. We are referring to .Islam which Hadhrat Muhammad ibn 'Abd Allah (s) introduced

Traditional interpretation as the only authentic interpretation of Islam

They say, "Yes, we also accept the same Islam but it has diverse interpretations. You express a particular interpretation of it." One of the products of Western culture is to advance different interpretations and understandings of religious texts. As I have mentioned before, sometime ago a Christian sect was founded in Canada. The founding priest of the said Christian sect was asked, "What is your opinion about homosexuality?" He replied, "For the meantime, I do not want to express my opinion but I tell you that the Bible should be interpreted anew!" This is because homosexuality is explicitly condemned in the Torah and the Gospel just as it is condemned in Islam. These gentlemen also say, "Islam and the Qur'an must be "!interpreted anew

We declare that we are among those who regard as credible the ۱,۴۰۰ year-old interpretation of Islam by the Shi'ah and Sunni 'ulama'. The "Islam" we are talking about is that which has been interpreted by the pure Imams ('a) and thereafter by the 'ulama' of Islam for the past fourteen centuries. We take that interpretation as the

criterion. If new interpretations arise according to which Islam and all its laws must be changed and a new "Islam" be formulated, we do not accept and have nothing to do with that "Islam" and also, I don't think that our Muslim people would be attached to .such "modern Islams" to be brought by Babs and Martin Luthers

The Islam which we know, talk about and adhere to is the one whose sources are the Qur'an and the Sunnah of the Prophet (s) and the pure Imams ('a) and whose

essential and definite laws have been elucidated by the Shi‘ah and Sunni fuqaha for the past fourteen hundred years, especially those laws about which the Shi‘ah and Sunnis have no difference of opinion.

This Islam tells us, "Just as you have to observe limitation and regulation in eating and drinking, limitation and regulation must also be observed in talking." Religion is not a garment to be worn today and be removed tomorrow. One must conduct research and accept the religion of truth.

In the domain of Islam, there is ample proof to establish its truthfulness and no one can say that the issue has been obscure for him and that he failed to identify the truth unless there were shortcomings in his research. If a person in a Micronesian island says, "I failed to grasp the truthfulness of Islam," he might be excused. But living in the domain of Islam, in which for the past fourteen hundred years the greatest "ulama'

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of Islam have written the most valuable and important books about Islam, if a person says, "I failed to identify the truth," I don't think that he can be excused.

In any case, the Islam we know states, "Just as you need to observe limits in eating and drinking, you need to do likewise in talking. You have no right to say whatever you like. You must follow the Islamic rules. Once you act beyond the Islamic rules, it is to the detriment of Islamic society. As you know, one of the prohibited acts mentioned in the treatises on practical laws of Islam [risalah al-‘amaliyyah] is to buy and sell deviant books. Islam does not grant the right to anyone, especially the one who does not possess the power to distinguish truth from falsehood, to go everywhere, listen to any talk or read any writing. As this noble verse explicitly states,

(وَإِذَا رَأَيْتَ الَّذِينَ يَخُوضُونَ فِي آيَاتِنَا فَأَعْرِضْ عَنْهُمْ حَتَّى يَخُوضُوا فِي حَدِيثٍ غَيْرِهِ...)

"When you see those who gossip impiously about Our signs, avoid them until they engage in some other discourse..."(۱)

And regarding the faithful, the Qur’an forbids them to mingle and sit together with :those who put religion into question

(وَقَدْ نَزَّلَ عَلَيْكُمْ فِی الْكِتَابِ ان إِذَا سَمِعْتُمْ آيَاتِ اللّهِ يُكَفَرُ بِهَا وَيُسْتَهْزَأُ بِهَا فَلاَ تَقْعُدُواْ مَعَهُمْ حَتَّى يَخُوضُواْ فِی حَدِيثٍ غَيْرِهِ إِنَّكُمْ إِذًا مِّثْلُهُمْ إِنَّ الله جامِعُ الْمُنَافِقِينَ وَ الْكافِرِينَ فی جَهَنَّمَ جَمِيعاً...)

Certainly He has sent down to you in the Book that when you hear Allah’s signs being“ disbelieved

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.Surah al-An‘am ۶:۶۸ -۱

and derided, do not sit with them until they engage in some other discourse, or else you [too] will be like them. Surely Allah will gather hypocrites and disbelievers, all (together, into hell...”(۱

Thus, those who talk about Islam but establish relationship with the enemies of Islam and promote their words are the same hypocrites [munafiqun] whose abode, .together with the infidels [kafirun], is hellfire

Once again, I emphasize that Islam commands: “Go and search for the truth and argue with the enemies of Islam. With the truth that Islam teaches, you shall overcome them. However, as long as you have not acquired enough capability to defend your doctrines and values, you should not accompany and mingle with the ”.misguided and wicked ones

It is like the advice given to an athlete to undergo training before participating in wrestling. A youngster who has not yet undergone enough training should not challenge a veteran wrestler as he shall surely be defeated and his backbone broken. This does not mean campaign against freedom. This is an admonition to a youngster .to learn Islamic sciences and teachings and then argue with the enemies

In any case, the Islam we know has limited freedom, and regards as untenable the argument that since talking is a natural necessity of man, talking must be free

because man also has other instincts such as the sexual instinct; eating and drinking can also be considered as natural rights that should not be restricted. Just as the consumption of every

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.Surah an-Nisa’ ۴:۱۴۰ -۱

food is unacceptable to a reasonable person, the same is true of talking. Being an innate necessity does not justify its unbridled use. Reason and religion should determine its limits based on the material and spiritual interests of society which have .been specified and introduced by religion

Legitimate freedom

While interpreting my petitions, there are those who have said, “So-and-so commits a fallacy because we have not said that freedom must be absolute. Our point is that there should be legitimate [mashru‘] freedom.” I ask: What do you mean by mashru‘? Do you mean that which is acceptable to religious law [shar‘]? In lexicography, there are two meanings of the word “mashru‘”. Its first meaning is what religious law [shari‘ah] has declared as lawful. (Of course, it is improbable that they refer to this meaning of mashru‘ because those raising these issues are not attached to the (.shari‘ah

So, if mashru‘ is that which shari‘ah permits, it means that freedom must be within a framework permitted by the shari‘ah. The other meaning of mashru‘ is that which is legal. According to this meaning also, in the Islamic Republic of Iran, as stipulated in the Constitution, the law must be concordant with Islam. Our Constitution consistently points out that all rules and decrees must be concordant with Islam, and in essence, the raison d’être of the fuqaha in the Council of Guardians as reflected in the Constitution is to examine the bills to be ratified by the Islamic Consultative Assembly —whether they are consistent with

.Islam or not

Even assuming that all the people and deputies in the Majlis (apart from the deputies of minority groups whose rights are also protected) are Muslim, religious and devoted, they may sometimes tend to be negligent and approve a bill which is against Islam. In keeping with the Constitution, the ratified bills of the Majlis are examined by the Council of Guardians—whether they are consistent with the Constitution and Islam, or not. The fuqaha of the Council of Guardians confirm the Islamic nature of the ratified bills while the lawyers of the Council confirm the consistency of these bills with .the Constitution

If our Constitution does not regard it necessary for all laws to be Islamic, then what is the raison d'être of the Council of Guardians? And for what purpose is all the emphasis on the sovereignty of Islam and the absolute guardianship of the jurist [wilayat-e mutlaq-ye faqih] stipulated in provisions of the Constitution? One should not be surprised if so-called lawyers say, "Since the Constitution stipulates that "!freedom must be observed, no religion or law has the right to limit that freedom

Does the Constitution clearly stipulate that freedom should be mashru', or not? It is you who say "azadiha-ye mashru'" [legitimate freedom]. What do you mean by "legitimate freedom"? If mashru' is derived from shar' [religious law], then "legitimate freedom" means freedom which the religious law endorses. And if mashru' means "legal" [qanuni], then according to the Constitution, freedom which has been approved by the

."religious and canonical laws are "legitimate freedom

Religion and law as restrainers of freedom

Freedom cannot be above law. Those who claim that freedom is above religion and law should answer these questions: In principle, what is the purpose of religion and law? What is the essence of law? Is law meant to point out that an action should be done in a specific manner? Does it permit and forbid certain acts or not? I have no

option but to repeat some of the previous points. Every law explicitly or implicitly says .actions should be restricted and must be done within a certain framework

Thus, in principle, the essence of law is to restrict freedom. If law and religion do not permit the restraining of freedom, their existence is useless. As it includes sociopolitical laws, religion filters and restricts the social and political actions of man and decrees that certain actions should be done within a specific framework. If ?religion means other than this, what is the purpose of its existence

If religion has been revealed so that everyone should behave in whatever way he or she likes, what then is its function? And what is its role? The existence of religion and law has no meaning other than limiting the liberties of man. Hence, to say that freedom is above both religion and law is absurd. Yes, under the name of religion some people may suppress the legitimate freedom of people and prohibit what God .has made lawful through superstitions and ethnic customs

For example, in

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some parts of our country, some ethnic tribes unfortunately still prohibit what God has made lawful and in the culture of our present society some lawful things are also still considered abominable. Had it not been for such an attitude in society, so many types of sexual corruption would have been prevented. The Commander of the :Faithful ('a) said

لَوْ لا ما سَبَقَ مِنِ ابْنِ الخَطّابِ فِی الْمُتْعَهِ ما زنی اِلّا شَقِیٌ.

Had ('Umar) ibn al-Khattab not prohibited fixed-time marriage [mut'ah],(۱) no one" (would ever commit adultery and fornication [zina] except a wretched person."(۲

Regrettably, in our culture this thing made lawful by God, which is a key solution for many problems, is still considered abominable. Yes, if there are those who under the name of religion want to declare lawful that made unlawful by God, it is abominable. Apart from being abominable, it is also unlawful [haram] and it is a kind of religious

innovation [bid'ah]. The same is true for its opposite. Forbidding the lawful is also an innovation:

انَّ اللهَ يُحِبُّ اَنْ يُؤْخَذَ بِرُخِصِهِ كَما يُحِبُّ اَنْ يُؤْخَذَ بِعَزائِمِهِ

"Verily, God loves people to benefit from the permissible [mubahat] and lawful [halal-ha] things just as He loves them to perform the compulsories [wajibat] and shun the unlawful [muharramat] things."(۳)

Thus, under the name of religion, or under the name of tribalism or local, ethnic and clannish prejudices nobody has the right to declare unlawful what has been made lawful by God. In the same manner, setting limits

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۱ - For information on the issue of mut'ah, see, among others, Sayyid Muhammad Husayn Tabataba'i, Al-Mizan: An Exegesis of the Qur'an, trans. Sayyid Saeed Akhtar Rizvi (Tehran: World Organization for Islamic Services, ۱۹۹۲), vol. ۸, under the commentary on Qur'an ۴:۲۴, pp. ۱۰۴-۱۱۱; Sayyid 'Abdul-Husayn Sharafuddin Musawi, Questions on Jurisprudence, trans. Liyakatali Takim (Ontario: Hydery Canada Ltd., ۱۹۹۶), chap. ۴, http://www.al-islam.org/masail/۴.htm; [۱۱] Sachiko Murata, "Temporary Marriage in Islamic Law," Al-Serat ۱۳, no. ۱, http://www.al-islam.org/al-serat/al-serat_muta/title.htm [۱۲]. [Trans.]

۲ - Ibn Abi'l-Hadid, Sharh Nahj al-Balaghah, vol. ۱۲, p. ۲۵۳.

۳ - Bihar al-Anwar, vol. ۶۹, p. ۳۶۰.

on freedoms is unlawful and an innovation. But if what is meant by "freedom" is illegitimate freedom, no one should expect religion not to oppose it!

This is because freedom can either be legitimate or illegitimate. If legitimate, both religion and law declares it lawful and is not opposed to it, and there is no point in saying that religion or law has no right to deprive society of legitimate freedom. If a religion permits something, how can it prohibit what it has permitted?

This is contradictory in itself. But if a certain freedom is illegitimate and religion has prohibited it, it is meaningless to say that religion has no right to prohibit it. This is .another form of contradiction

Necessity of restraining freedom

It can thus be deduced that we also regard freedom as a very noble element permitted by God and a prerequisite for the material and spiritual exaltation, advancement and perfection of man. We believe that if man does not possess the gift of freedom, he cannot consciously choose a religion and act upon its commandments, for his conviction will have no value. The advancement and perfection of man lies in his conscious acceptance of religion. This is also the meaning of "There is no compulsion in religion."(۱) We believe that freedom is one of the greatest gifts of God, :but is most beneficial when used within limits specified by the Giver of the gift

(...وَمَن يَتَعَدَّ حُدُودَ اللّهِ فَأُوْلَئِکَ هُمُ الظَّالِمُونَ)

And whoever transgresses the bounds of Allah—it is they who are..."

۱- Surah al-Baqarah ۲:۲۶۵.

(the wrongdoers."(۱

Transgressing the bounds set by Allah leads to wretchedness and deprivation of the divine gift. The same thing which leads to man's felicity will result in his misery. Once a person consumes food beyond limit, he will get sick and it may even cause his death. Once gratification of the sexual instinct which is a divine gift goes beyond limits, it will bring about social corruption and inflict dangerous diseases and sometimes even the extinction of society. The Islamic state not only guarantees legitimate freedom but at .the same time, it has to prevent illegitimate freedom

The skepticism expressed in newspapers is that by holding these discussions, I allegedly want to omit the article on national sovereignty from the Constitution. They

say, "According to the Constitution, the people are masters of their own destiny. So, if they are compelled to follow religion only, they will no longer be masters of their own destiny!" This skepticism is so deceptive. I say to them: Is this the only thing mentioned in our Constitution? Is it not stipulated in the same constitution that ?sovereignty belongs to God the Exalted

Does not the same constitution say that the laws to be implemented in the country must be in agreement with Islam? Are these facts not mentioned in the Constitution with the article that people shall be the masters of their own destiny? It may be said that these two articles of the Constitution are contradictory and are in need of interpretation and

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.Surah al-Baqarah ۲:۲۲۹ -۱

solution. But if we try to analyze them carefully, we will understand the purpose of the two articles. Once it is stated in the first article that sovereignty belongs to God and then it is stated that the people are masters of their own destiny, it means that under .the aegis of God's sovereignty, the people are masters of their own destiny

Thus, those who are outside Islamic society and not among the people of this country have no right to impose their own ideas, preferences, religion, and law on us. America has no right to impose its law on us. It is the people of this country who are supposed to vote for their own desirable law and they have already voted in favor of Islamic .law

In his speech at Ahwaz University, a certain person has said: "Even if the people demonstrate against God, the law is not supposed to prevent them!" Is this what the sovereignty of the people means? Does the Constitution say so? If a certain person .who is unfamiliar with the Constitution makes such utterances, it is understandable

What is surprising is that a certain person who regards himself a legal expert makes such a claim! He may say, "We do not accept your interpretation of the Constitution."

In reply, it must be said that if there is an ambiguous point in the Constitution, its authorized interpreter is the Council of Guardians. If you accept this constitution, you will see that it does not give

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you the authority to interpret it. If you really believe in this law, you have to seek its interpretation from the Council of Guardians. It is this Council of Guardians which is the guardian of Islam and the Constitution and is composed of Muslim jurists whose function is to guard and protect Islamic laws. Once your view is approved, you have the right to trample Islam under your feet!

Session ۱۶: Difference between Divine and Atheistic Culture in the Realm of Law and Freedom

Role of choice, awareness and observance of law in attaining the goal

According to Islam, man is a locomotive being; in other words, a traveler moving from his point of origin to a certain destination, which is ultimate perfection and bliss. The span of life must be lived in order to reach the destination. An example will help in understanding the subject. Let us assume that a driver wants to travel from Tehran to Mashhad. If his hands and feet are paralyzed he obviously cannot drive. He can only drive if his body limbs are sound, having the freedom to choose and select.

Without that freedom he cannot tread any path leading anywhere, least toward perfection. Therefore, God, the Exalted, has endowed man with freewill and the power to choose so as to tread this path on the feet of his own "choice and volition" and arrive at the destination. Otherwise, he will never arrive at the destination. As such, if one thinks that in a state of compulsion he can tread this path toward perfection and arrive at the destination, he is wrong. Man must be free and have the

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power to choose the right path.

The more man is free to choose, the more valuable his deed. For the driver to merely

have a sound physique is no guarantee that he will arrive at his destination. It is possible that out of recalcitrance, whim and caprice, he chooses the wrong way. In other words, the necessary requisite for the attainment of bliss is that man should pay attention to the road signs and faithfully observe the driving rules and regulations in order to arrive at the destination. He, who believes he is powerful because he has free will, and can violate driving rules and regulations, should be aware that his path will .end in the abyss of doom

Apart from the fact that man should have a sound body and mind, he should also know the route and observe the rules. Driving rules can be divided into two: the first set of rules, which if not observed, will cause harm to the driver himself. For example, if he deviates from the highway, he might possibly fall into a canyon or fall from the .bridge—harm himself and his vehicle

In order to avoid those dangers, the second set are warning signs such as "Dangerous curve," "Keep to the right," "Drive slowly," etc. so that the driver remains safe. Yet, violating the second set of traffic and driving rules will not only endanger the life of the driver but also the lives of others by causing accidents, which sometimes endanger the lives of

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.hundreds of people

In some expressways and highways, especially in countries where speeding is allowed, violations of rules are responsible for the hundreds of cars that hit one another, and as a result, endanger many lives, for example, in an accident in Germany ۱۵۰ cars bumped into one another. Naturally, in such environments it will not suffice to warn and advice precaution; traffic lights and more powerful warning signs will be posted; surveillance cams, automatic cameras, and occasionally, policemen will be on .duty in order to pursue, fine and punish the offending drivers

Violation in the first case would lead to the deviation of the vehicle from the highway, its turning upside down and breaking the driver's hands and feet. In this way, they will

not fine the driver because he harmed only himself. But in the second case, the violations would endanger the lives of others, and, therefore, the police will pursue .the violator and penalize him

Difference between moral and legal laws

In the course of man's life, there are two kinds of dangers: personal and social, namely moral and legal. The first kind refers to dangers related only to ourselves. If we do not abide by the laws and regulations, we harm ourselves. In these events decrees, which are technically called moral laws, are enacted, obeying which is emphasized. If a person does not pray or, God forbid, commits other sins in privacy, .which no one is aware of, this person harms only himself

Nobody will pursue him and ask why he

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committed such sins in privacy. Nobody is even permitted to investigate because spying on actions done in privacy by individuals is unlawful. This issue is a personal one. Although there are moral admonitions, decreeing that even in privacy man shall not commit sin and think of committing it, these admonitions are like the warning signs posted along the roads. Nevertheless, the second kind of danger is not related only to the person himself. In case of non-observance of the rules and regulations, which are technically called legal offences, both the person in question and society will .be harmed

As such, these laws need the assurance of obedience, and their violation needs to be dealt with accordingly. These are similar to driving offences that cause accidents and endanger the lives of other people. It is on this account that the police pursues and penalizes the offender. It is here that legal laws, including penal and criminal laws, are brought up vis-à-vis moral laws. This domain deals with the field of those laws which are enacted by the legislature and whose execution is guaranteed by the government, thus, the basic difference between moral and legal rules is that in moral rules, nobody guarantees their execution, nor is their violator penalized. If someone is

being pursued, it is not because of a violation of moral rules, but a violation of legal rules, for which the government is guarantor. "Privacy" is an individual's legal right in the general sense; when it involves others it

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.becomes penal and criminal

Just as a driver must be careful about his life as well as that of the passengers and save them from danger, man is like a traveler who moves from a starting point facing many dangers along the way leading to the destination. These dangers are sometimes related to himself and have individual rules for which there are moral admonitions. Yet, wherever these become possible dangers for others, or somehow morally corrupt others, or encroach on their lives, properties and chastity, they fall .under legal (in contrast to moral) laws, which the government has to execute

All rational individuals in the world acknowledge that if a certain act of an individual poses a threat to others, there must be a law to curtail the freedom of the violator because that freedom is not legitimate and legal. The intellect does not accept this freedom as it poses a threat to other people. We do not know any 'rational' person who, out of knowledge and awareness, would say that man should be free in life to do whatever he likes no matter what harm it entails for himself as well as for the lives, .properties and chastity of others

Thus, wherever there must be a law, and society must accept that law, there is no dispute. The point of difference is this: Are moral rules sufficient, or are administrative laws also necessary? Are we in need of an external executive guarantor, i.e. the state or not? Could one

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rely only on the same moral admonitions? In reply to those who say that government is unnecessary, and people can be trained by means of moral instructions, we must admit that it is very idealistic a demand. The historical experience of mankind has

proved that no society attains its goal only through moral admonitions and that .systems only work by adhering to the laws administered by the state or government

Divine and atheistic cultures and their different perspectives on law

After acknowledging the fact that law has the right to limit freedom that can harm others, this question is raised: Does the legislator limit the freedom of man only if it harms the material interests of others and causes material loss to him; or, in lawmaking the religious, spiritual and otherworldly interests of human beings have to .be taken into account as well? The bone of contention lies on this discussion

We can classify cultures into two: One is the divine culture, an example of which is Islamic culture, which is the focus of our attention. We believe that divine culture is not peculiar to the religion of Islam. It includes other heavenly religions as well, though there have been distortions and deviations therein. Another culture is the ."atheistic or non-divine culture," the symbol of which is the Western world

It must be kept in mind that what we mean is not the geographical west; rather, what we mean is what we called Western culture, which is prevalent in Europe and America. The states in that part of the world

are promoting this culture and spreading it to other countries. So, for clarity sake, let us present two classifications of culture. One is divine culture while the other is Western (atheistic) culture. These two cultures have some fundamental differences .which we will now clarify

Three pillars of Western culture

It can be said that Western culture consists of three fundamental pillars. Its first pillar is "humanism". That is to say, nothing else but a life full of comfort, happiness and ease is valid for man. The word "humanism" opposes inclination to God and religion. Its famous meaning is "anthropocentrism". That is, man has to think of himself, his .pleasure, enjoyment and comfort, there being a god or an angel is not his concern

This trend is opposed to the one prevalent during the Middle Ages in Europe, and before that in Eastern countries where the main attention focused on God and divinities. The humanists say that they need to abandon extreme attention to celestial affairs for the sake of mundane affairs. They want to return to the core of humanity, and discuss nothing beyond man and nature, especially God. It is not necessary to .deny them, but they need to have no business with them. The criterion should be man

This principle is contrary to divine culture, which states that the pivot is Allah and that all our thoughts must revolve around the concept of God. We must seek our prosperity and perfection through proximity and union with Him, for He is the fountainhead of

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all beauty, felicity, nobility, and perfection. Hence, Allah is the axis. If we need to put an ism with it, we will call it "Allah-ism". That is, attention to Allah in opposition to attention to man. This is the first basic point of departure and clash between divine culture and Western atheistic culture. (Of course, there is also an exception in the West as there are also divine and spiritual trends there. I mean the dominant trend, (.which today is called Western culture

The second pillar of Western culture is "secularism". After the Westerners made man their focus, any person who wanted a religious inclination was like someone who wanted to be a poet or painter, and as such, he would not be confronted. Just as some accept a particular school of painting and sculpture, some want to be Muslims or Christians, and they are free to go along their way, for what man wants must be respected. Choosing a religion is like choosing a kind of literature, poem or art, and .individual choice must be respected

But these individuals must be aware that religion has no relation whatsoever with the basic issues of life and must not pose any obstacle to them. Just as poems and literature have their own particular status, religion also has its own. It will be respected, but this show of respect does not mean that religion becomes the nexus of politics, economics and international issues. So, religion is a marginal issue. If those

who

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want to worship God go to the house of worship like a poet who recites a poem and supplicates to his God, it is no ones business.

The secularists are concerned with which law should rule over society; what kind of an economic and political system should be instituted. Religion should not be allowed to interfere in this domain. The locus of religion is the mosque, church and idol-temple. The serious issues of life are related to science, and religion must not play any role in the basic issues of life.

This trend and mindset in general is called secularism. That is, the segregation of religion and the issues of life, and so to speak, "thinking of this world" instead of "thinking of heaven," which is inculcated in religion. Statements such as celestial angels descending on the Prophet (s) or, in the hereafter man will be admitted to the kingdom of heaven and the like, must be dismissed. As earthlings one must talk about food, clothing, art, dance, music, and similar things that are beneficial to life and have no relation with the domain of religion. Since, fundamental issues of man life, particularly economy, politics and law are related to the science and religion should not interfere in them. This is the second pillar of Western culture.

The third pillar is "liberalism". That is, nobility depends on man. Man must be totally free. There must be no restrictions and limitations on the life of man, unless they are necessary. One must

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try to minimize the limitations as much as possible, and reduce the values. It is true that each person and each society has his or its own set of values, but they must not be treated as absolute. Everyone is free to be faithful to a set of individual and collective ceremonies and customs, but he must not allow a certain manner to be regarded as a social value and let it interfere in politics, economy and law.

Man is free to conduct any transaction he wants and to produce anything he wants. He can use any kind of labor in any manner, and he must be as free as possible in economic affairs. There must be no restriction in choosing profitable transactions whether it involves usury or not. The worker must be given as much work as possible, and the length of time of his work must not be fixed so that the capitalist can earn .more profit and income

Concerning the labor wage, they say that the lower the level, the better. Fairness, compassion and justice are essentially discordant with liberalism. The liberal man must think of advancing his economic interests. Of course, expediencies demand that sometimes law must be observed so as to avoid chaos and disorder. But the crux of the matter is that man must behave the way he likes. He is also free to choose his mode of dress, and, should he wish, go nude, as there is no problem with that. No one

.should restrain him

Of course, sometimes particular social conditions impose restraint on individuals, such that if they want to be totally nude, the people revile and vilify them. This is a different story, otherwise no law is supposed to impose a limit on man on how he dresses, whether his attire is short or long, limited or not, and stripped or not. Based on liberalism, man must be free, and the relationship between man and woman must .also be as free as possible

Freedom must be checked to some extent only, in case extreme conditions that lead to chaos emerge in society. This is the ultimate point of freedom. Unless it reaches that limit, man and woman are free to have any kind of relationship whenever and however they please. The same applies to political issues. The principle is that no condition or circumstance must limit man, unless it is necessary. These three pillars of humanism, secularism and liberalism constitute the triple edifice of Western culture, .which play a vital role in their lawmaking

Fundamental conflict between Western and Islamic culture

The first conflict between Western culture and Islamic culture is humanism, opposing the supremacy of God. The humanists do not believe in divine legislation, just as the Muslims believe in God. They only think of their economic interests, welfare, comfort, and pleasures. Among Western schools there are further disputes on whether pleasures and interests are individualistic or collective. However, all these schools .have one thing in common, which is, reducing conditions and limitations

In opposition to

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this atheistic thinking is the mindset of the divine school and Islamic culture, which states: Nobility does not depend on man; rather, God is supreme. It is He Who is the genesis of all values, beauty, felicity, and perfection. He is Absolute Truth. He has the greatest right on human beings, and we have to behave in such a way that we establish a link with Him. God cannot be set aside in life, or else man will forfeit his humanness. The essence of humanness lies on worship of God. Man is innately inclined toward Allah. Once we overlook this inclination, we remove man from his humanness. The main focus in the ideas, thoughts and values is only God, whose .opposite is anthropocentrism

The second conflict is secularism, opposing the supremacy of religion. The most important issue for a faithful person is the choice of religion. Prior to thinking about his daily bread, he has to investigate whether the religion he is professing is the truth or not, whether his religion is authentic or not. Is belief in One God correct or not? Is it better to remember God or to deny Him? Which is correct, belief in One God, the ?Trinity or many deities

Thus, on the very day that man reaches the age of responsibility, he has to determine whether or not he believes in God, the revelation and the Day of Resurrection. Is the Qur'an the true word of God or not? Prior to choosing occupation, spouse

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and field of study, he has to choose his religion because religion is related to all aspects of life. Thus, the second pillar of divine culture is religion-centeredness, which opposes secularism because it marginalizes religion, and does not allow it to interfere .in the main issues of life, nor consider it as essentially encompassing all facets of life

Islam states that no subject is outside the ambit of religious values, the lawful and unlawful. Religion determines the lawfulness or unlawfulness of every thing. This is .the opposite of secularism

The third conflict is on liberalism; that is, the supremacy of freedom, capriciousness and a lack of restrictions. Liberalism means the preeminence of desire; if we translate it into Persian we say, isalat-e delkhah [the primacy of desire]. Opposing liberalism is .the supremacy of rightfulness and justice

Liberalism states that you have to act as you like, while the divine culture states that you have to act within the periphery of rightfulness and justice. One must not take a step beyond the sphere of rightfulness and act against justice; of course, the two (rightfulness and justice) are interrelated, for if we take rightfulness in its general :sense, justice will also be included

اَلْعَدَالَهُ إِعْطاءُ كُلِّ ذی حَقٍّ حَقَّهُ.

".Justice means to give to all the rightful owners (claimants) their rights"

Hence, the concept of rightfulness is blended in the concept of justice, but to avoid .misunderstanding, we mention the two concepts together

Liberalism upholds the primacy of desire and its opposite is religion that

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advocates the supremacy of truth and justice. In other words, religion says that truth and falsehood exist and we have to identify which is truth and which is falsehood; which is justice and which injustice. Even though I want to commit injustice against others, I am not supposed to do so to anyone. The expediency of liberalism is that we

respect truth and justice so long as going against them leads to a crisis; otherwise, .everyone can do as he likes

They say that compassion and fairness are concepts humanity has evolved while in a state of weakness. If you have the ability, you can do whatever you want to do unless you feel that this freedom (of action) will cause a social crisis and since its dire consequences will also affect you, it (freedom) must be restrained. Thus, the third principle in Islamic culture is the supremacy of truth and justice whose opposite is the .primacy of desire

Apart from these three pillars, there are also other elements in Western culture which lack either universality or authenticity. One of the most important of these elements is "moral positivism" which means that moral values are dependent on the desire and taste of people and have no innate reality. If today they accepted, approved and are pleased with a thing, it becomes a value. But if tomorrow they no longer want it and reject it, it will become a non-value. I have said many times that the members of our ,society

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.given their mental purity, cannot comprehend how polluted Western culture is

For instance, in a society in which, not too long ago, it was one of the filthiest practices, today, homosexuality has become a moral value regarding which an attractive philosophy and tons of literature are presented, official associations are formed in which prominent figures of the country, such as ministers and lawyers are members! The demonstration in support of it is more crowded than any political demonstration. Why? It is because the preferences of people have changed. Before their preference was to live with individuals of their opposite sex but now their preference has changed and they want to live with individuals of the same sex. !Marriage between two men or two women is officially registered in the mayor's office

This mindset is called "moral positivism" which maintains that moral values have no rational reality and are dependent on the demand, preference and choice of the

people. The criterion is the people's vote. Whatever the people say today is good becomes good, and tomorrow if they say it is bad, it will become bad. Apart from the desires of people, there is nothing real which serves as the criterion of values. This is only one of the many diseases infecting their society thanks to, the influence of these three main pillars, i.e. humanism, secularism and liberalism on their lawmaking .process

Difference in approach between Islam and the West on determining scope of freedom

As stated earlier all rational people of the world reject absolute freedom. We do not know any rational person who says

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that anyone can do whatever he wants at any time. On negating the absoluteness and limitlessness of freedom, the question is: What is the extent of freedom? The common answer is that the extent of freedom is determined by law. Then, it is asked: To what extent can law restrain freedom? In previous discussions we stated that some say that there is a set of liberties which cannot be restricted by any law because .they are above both religion and law

In previous sessions I explained that the essence of law is to limit freedom and the legislator can put a restraint to some extent on the freedom of individuals. Basically, this is the meaning of law. The bone of contention is the extent of law to promote or restrain freedom? Based on Western culture, freedom can be limited whenever it threatens the material interests of human beings. If freedom threatens the life, health and property of human beings, the law will restrain it. Therefore, if the law says that maintaining health is necessary and that potable water must not be poisoned as it would endanger the lives of people, this imposition of limits on freedom is .acceptable in order to maintain the safety of individuals

Undoubtedly, this law is acceptable for all. Nevertheless, in case an act threatens the chastity, eternal bliss and spiritual values of people and pollutes the human soul, should the law hinder it or not? It is here that the dispute between the divine and

Western

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:cultures arises

From the divine perspective, man is moving toward divine and eternal perfection and the law is supposed to pave the way for this evolution, by removing all obstacles along the way. (At this juncture, the laws we are referring to are legal and administrative laws, not moral laws, whose guarantor is the government and what is related to the individual, i.e. moral issues, are not the subject matter.)

In answer to the question whether law should prevent anything that jeopardizes the eternal life of human beings, divine culture states that it should, but Western atheistic culture replies in the negative. If we are truly Muslims, and do acknowledge God, the Qur'an, Islam, Hadrat Muhammad (s), Hadrat 'Ali ('a), and the Imam of the Time (may Allah, the Exalted, expedite his glorious advent), we would hold the spiritual, eternal and otherworldly values in high esteem.

Our lawmakers have to protect the spiritual and divine interests, while the Islamic government has to prevent that which is harmful for the spiritual health of human beings, otherwise we will be following Western culture. The law should not only facilitate the spiritual wellbeing but the bodily health, subsistence and material welfare of human beings, prevent anything that creates disorder and crisis in society, and, check any action that threatens the economic interests and security of the people. We have two options before us: We have to accept either Islamic law or Western law. Of course, in these two options there are intermixtures and

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:intersections as stated earlier. The Commander of the Faithful ('a) says

يُؤْخَذُ مِنْ هذا ضِغْثٌ وَ مِنْ هذا ضِغْثٌ فَيُمْزَجَانِ

"Something is taken from here and something from there and the two are mixed!"(۱)

Taking something from Islamic culture and something from Western culture constitutes the asymmetrical combination. Certainly, Islam does not accept such an :approach, and in reproaching it the Qur'an states

(إِنَّ الَّذِينَ يَكْفُرُونَ بِاللّهِ وَرُسُلِهِ وَيُرِيدُونَ أَن يُفَرِّقُوا بَيْنَ اللّهِ وَرُسُلِهِ وَيَقُولُونَ نُؤْمِنُ بِبَعْضٍ وَنَكْفُرُ بِبَعْضٍ وَيُرِيدُونَ أَن يَتَّخِذُوا بَيْنَ ذَلِكَ سَبِيلًا □ أُوْلَئِكَ هُمُ الْكَافِرُونَ حَقًّا...)

Those who disbelieve in Allah and His apostles and seek to separate Allah from His" apostles, and say, 'We believe in some and disbelieve in some' and seek to take a way (in between—it is they who are truly faithless."(۲

Today also, there are those who want to mix some elements of Islam with some elements of Western culture, and present it to society as "modern Islam". These individuals do not believe in Islam. He who believes in Islam, knows that Islam is a totality whose demands he must necessarily accept. I cannot claim that I do accept Islam, but I do not accept some of its demands. Therefore, our affair in legislation and in setting limits on freedom is situated between the two, one of which we have to .choose

We have to regard either the material and worldly threats, or both the material and spiritual threats as the criterion in setting limits to freedom. If we accepted the first we would accept atheistic

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.[Nahj al-Balaghah, Sermon ۵۱, http://www.al-islam.org/nahjul [۱۳ -۱
.Surah an-Nisa' ۴:۱۵۰-۱۵۱ -۲

Western culture, but if we accepted the second, would we accept the divine Islamic .culture. The farther we are from the first, the nearer we come to Islam

When only the material interests are considered, a small circle of limitations is set around the freedom of man; however, when we add the spiritual values, another circle is added to the first circle, and two circles emerge. As a result, the circle of

limitations becomes wider than the circle of freedom. We cannot be like the Westerners who are unrestrained and unfettered. We have to observe the set of other values related to the spirit, true humanity and eternal life of man. But Western culture says that these values are not related to social laws.

Government and state laws revolve only around the axis of material affairs of society and their opposite are related to ethics, which have nothing to do with the state. Once it is said that the sanctity of religion is in danger the government official says, "It does not concern me; my duty is to protect the material interests of people. Religion is related to the seminaries and the akhunds;(۱) they themselves have to go to protect it (religious sanctity). The government has nothing to do with these issues." But if the government is an Islamic one, it says: "Religion first, then the world."

Therefore, we need to be very careful while dealing with these two cultures. We should know that whenever we go against religious values and

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۱- Akhund: a word of uncertain etymology that originally denoted a scholar of unusual attainment, but was later applied to lesser-ranking scholars, and then acquired a pejorative connotation, particularly in secularist usage.

feel internal weakness, the reason is that we have moved closer to the atheistic culture and forgotten the truth of Islam. This Revolution was not only for fulfilling material values, but, essentially, it was for reviving Islam. All these martyrs who offered their lives and blood were meant to keep Islam alive and not merely guarantee material welfare and sociopolitical development.

These martyrs gave their lives for the advancement of the Islamic culture. Islam and Islamic values must be at the top of the agenda of the Islamic state. If some individuals incorrectly interpret certain words and quote them out of context, and distort the truth for various motives, we have no business with them. We want the dear Muslims to be aware of the scope of religion, the importance of religious values, and the sacrifices needed in preserving them. Our people are aware of the issues but

the duty of a religious scholar is that whenever he feels that a spiritual ailment wants .to permeate society, he has to set the alarm signal to warn his fellowmen

Session ١٧: Relationship between Religious Legislative Lordship (rububiyyat–e tashri'i), and Sovereignty and Legislation

Necessity of determining thematic principles

In proving the claim that a correct and wholesome social system must be harmonious with the above description of government, we pointed out that if we want to prove this point to those who believe in our juristic and ideological foundations, we shall do .so by presenting religious proofs foremost of which are noble verses of the Qur'an

But there are those who do not believe in the truth of

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the religion of Islam or other rudimentary principles which are the foundation of this theory. Thus, if we want to prove this theory to such individuals, we have to first point out the thematic principles of the subject and prove them. Thematic principles refer to .a series of points which begin in the preliminary axioms and end up in this theory

Those who are familiar with the argumentative account or method of proving geometrical cases know that a case is stated as the main subject on the basis of which the second case is proved. The second case has the same function with respect to the third case, and so with the third and fourth cases, and the trend continues gradually. If we want to prove the ٢٠th case, the ١٩th case should have been proven beforehand, and similarly, proving the ١٩th case necessitates proving the preceding case. In considering the person who is our addressee and to whom we want to prove a geometrical case, we have to see to what extent he has accepted the previous .cases so that we can set them as the thematic principles and basis of the discussion

On the contrary, if in proving every case we only repeat the previous cases—for example, the definition of a straight line as the shortest distance between two points, or the definition of parallel lines as lines that will never intersect each other—we

cannot move ahead. Thus, to prove a rational case, we have to point out

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its thematic principles which must be proven earlier in another discussion. Once we assert that the law must be divine, the existence of God must be proved earlier.

Thus, if a person says that he does not accept the existence of God, we have to engage in a scholastic theological [kalami] discussion with him in order to prove the existence of God the One and Only and His right of Lordship [rububiyyah], and thus, prove the necessity of linking the government to God.

Therefore, if we want to begin with the preliminary principles, the discussions will become repetitive and wearisome. As such, we have to raise the closest acceptable principles and leave remote subjects to their relevant fields of science. This means that once we commence solving the ۱۰th principle in a geometrical case, we can prove all the previous cases, having proved them beforehand and on their basis arrive at the next conclusions. I have mentioned this point because some people can be heard saying, "You are dealing with these subjects on the basis of your own criteria which are unacceptable to others." Thus, it is necessary that our addressee agree with us on certain principles and cases so that based upon those principles and cases other cases can be proved. If he or she does not accept the preliminary principles, we have to return to the basic and prove those preliminary points in a different field of science.

Some have complained that we have based Western culture on humanism and

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liberalism and presented it as an atheistic culture whereas there are people in Western countries who also believe in God. I have stated time and again that those who say "Western culture" do not refer to the geographical west. It does not mean that all those who live in the West think like that. Of course, there are also religious individuals there who believe in God and are attached to moral values and we respect them.

But what is actually prevalent in Western societies is based upon these principles. Some consciously reject that culture. Similarly, it was stated in the previous discussions that the eclectics are those who gather ideas from different schools of thought and mix them together without proving beforehand the rational foundation of each of them, and at times, these ideas are inconsistent and incongruent with one another. As a whole, it is necessary to point out that if a person pays attention to the .totality of our subjects, he or she will never encounter such problems

In any case, we shall engage in argumentation in order to prove that the political system endorsed by Islam is the most rational and judicious system. Here, we naturally assume the principle of the existence of God and His Attributes to be axiomatic, and base our argument on this principle. Those who reject the existence of God and do not believe in some of His Attributes have to refer to scholastic theology .['ilm al-kalam] because our present discussion is not scholastic

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It is related to political philosophy and, therefore, we cannot engage in scholastic .discussions here

Divine sovereignty and legislative Lordship

The political system of the Islamic government stands on the edifice of God's sovereignty which necessitates the legislative Lordship [rububiyyat-e tashri'i] of God. In explaining this point, we have to note that undoubtedly, monotheism [tawhid] is the slogan of not only Islam but all the religions with heavenly origins. The formulae "There is no god but Allah" [La ilaha illallah] which has been the prime slogan of the Prophet (s) also exists in all other religions, albeit distortions have taken place. The ?question now raised is: What does "La ilaha illallah" mean

Some think that tawhid means that a person should believe that the Creator and Sustainer of this universe is the One and Only Allah. But does tawhid only mean that there is no creator except Allah? Is the Oneness of Allah in creation and nourishment the only basis of monotheism in Islam? In a series of talks I had some years ago at

this same venue under the theme “Monotheism in the Ideological and Value Systems of Islam”, I stated that tawhid does not only mean that a person has to believe in the Oneness of the Creator of the universe. The monotheism accepted by Islam is not only confined to this meaning. The polytheists of Mecca also believed in ‘monotheism in creation’. For example, God indicates this point, thus:

(وَلَئِن سَأَلْتَهُم مَنْ خَلَقَ السَّمَاوَاتِ وَالْأَرْضَ لَيَقُولُنَّ اللَّهُ...)

“If you ask them, ‘Who created the heavens

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and the earth?’ they will surely say, ‘Allah’…”(۱)

Similarly, Satan believes in the existence of God and monotheism in creation, but God still enlists him among the infidels.(۲) The dialogue between Iblis and God as mentioned in the Holy Qur’an, shows that he believed in monotheism in creation and cosmic Lordship [rububiyyat-e takwini], as well as in the hereafter and the Day of Judgment:

(قَالَ رَبِّ فَأَنظِرْنِی إِلَی یَوْمِ یُبْعَثُونَ قَالَ فَإِنَّکَ مِنَ الْمُنظَرِینَ إِلَی یَومِ الْوَقْتِ الْمَعْلُومِ قَالَ رَبِّ بِمَا أَغْوَیْتَنِی لَأُزَیِّنَنَّ لَهُمْ فِی الأَرْضِ وَلَأُغْوِیَنَّهُمْ أَجْمَعِینَ)

“He said, ‘My Lord! Respite me till the day they will be resurrected.’ Said He, ‘You are indeed among the reprieved until the day of the known time.’ He said, ‘My Lord! As You have consigned me to perversity, I will surely glamorize [evil] for them on earth, and I will surely pervert them.”(۳)

Thus, Satan also believes in monotheism in creation and the cosmic Lordship of God as well as in the Resurrection. What needs to be examined is the factor that led to his kufr. In order to recognize the source of Satan’s kufr, it is necessary to identify the foundation of monotheism in Islam. According to Islam, to be recognized as a monotheist [muwahhid] is belief in the Oneness of the Creator, Oneness of the cosmic and legislative Lord and Oneness of the Worshipped Being.

That is, man has to regard the Creator as One and Only, as well as, the Sole Authority ,and Agent in the universe, and

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۱- Surah Luqman ۳۱:۲۵.
۲- Surah al-Baqarah ۲:۳۴: "He was one of the faithless."
۳- Surah al-Hijr ۱۵:۳۶-۳۹.

the Original Legislator. In addition, he has to believe in monotheism in divinity [uluhiyyah] and servitude ['ubudiyyah] and to recognize God as the only Being worthy of being worshipped. In view of the foundation of 'tawhid', it becomes clear that the source of Satan's 'kufr' was denial of the legislative Lordship and not denial of the cosmic Lordship.

Also, God, the Exalted, commands His Messenger (s) to invite the People of the Book [ahl al-kitab] during the dialogue with them to the common platform of belief in the Unity of God and worship of His Unique Essence. Then, God makes a statement to dissuade them from believing in the legislative lordship of other-than-God and save them from becoming infidels:

(قُلْ يَا أَهْلَ الْكِتَابِ تَعَالَوْاْ إِلَى كَلَمَةٍ سَوَاءٍ بَيْنَنَا وَبَيْنَكُمْ أَلاَّ نَعْبُدَ إِلاَّ اللّهَ وَلاَ نُشْرِكَ بِهِ شَيْئاً وَلاَ يَتَّخِذَ بَعْضُنَا بَعْضاً أَرْبَاباً مِن دُونِ اللّهِ...)

"Say, 'O People of the Book! Come to a word common between us and you: that we will worship no one but Allah, and that we will not ascribe any partner to Him, and that we will not take each other as lords besides Allah'..."(۱)

The meaning of some traditions in commentary of the above verse is that the People of the Book do not regard human beings like them as their creators. Instead, they recognize their priests and clerics as their legislative lords and consider their decrees as equal to that of God. The Qur'an describes unconditional and unwavering obedience to the priests and clerics as equivalent to

.Surah Al ‘Imran ۳:۶۴ -۱

".taking them as lords: “And that we will not take each other as lords besides Allah

That is, do not make unconditional and unwavering obedience to your leaders for this is a form of polytheism. But this form of polytheism is not polytheism in the creative power and cosmic Lordship. It is not polytheism in divinity and servitude either because they do not worship their priests and clerics per se. It is rather polytheism in the legislative Lordship. That is, apart from God, they also believe in the existence of other legislators. They say that other beings including us have the right to enact law; .and not only is the law of God binding, that one should obey whatever He commands

For example, when Iblis denied the legislative Lordship of God, he said: “I am better than him”. That is, “I am not supposed to bow down to Adam.” Although God commanded him to bow down to Adam, he said: “I will not bow down to Adam because I am better than him.” That is to say that Satan did not comply with this decree and command of God. In other words, he did not regard the right of .sovereignty as exclusive to God

This was the same source of Iblis’ kufr for, as we have said, he was not a denier of God’s Lordship and the Day of Resurrection. The source of Iblis’ kufr was the denial of God’s absolute sovereignty. That form of kufr which Islam ascribes to

some of the People of the Book—calling upon them to relinquish it and return to ,tawhid—is legislative polytheism. As the Qur’an says

(اتَّخَذُوا أَحْبَارَهُمْ وَرُهْبَانَهُمْ أَرْبَابًا مِن دُونِ اللّهِ وَالْمَسِيحَ ابْنَ مَرْيَمَ وَمَا أُمِرُوا إِلاَّ لِيَعْبُدُوا إِلَهًا وَاحِدًا...)

They have taken their scribes and their monks as lords besides Allah, also Christ,“ (Mary’s son; though they were commanded to worship only the One God...”(۱)

Never did they bow down on earth in front of their leaders, or prostrate and worship them. Their taking of their scribes and monks as lords means unconditional, unwavering and blind obedience to them, and in reality, it means not considering .legislation as solely belonging to God

Meaning of pure monotheism

Therefore, pure monotheism is that which is not tainted and mixed with any form of polytheism; neither the polytheism of Iblis nor that of the People of the Book. The foundation of monotheism in Islam, apart from belief in the Oneness of the Creator, the cosmic Lord and the Worshipped Being, is the belief in the Unity of the legislative Lord. These four elements constitute the pillars of monotheism in Islam. If any one of .them becomes defective, real monotheism will not be realized

If a person believes that other than God there is another creator or cosmic lord who independently administers the world or has the right of sovereignty or being worshipped, he is expelled from the realm of Islamic tawhid. Thus, belief in the legislative Lordship is one of the pillars of Islamic monotheism, and without it Islamic monotheism cannot be

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۱- ۹:۳۱ Surah at-Tawbah (or, Bara'ah).

.realized

A person may ostensibly recite the testimony to God and Prophet Muhammad (s) [shahadatayn] and even be considered ritually pure [tahir], but this is apparent purity. .Its only impact is that he shall be included among the Muslims in this world

If ever in the treatise on the practical laws of Islam [risalah al-'amaliyyah] it is written that he who recites the shahadatayn is a Muslim, ritually pure, permissible to marry, and whose slaughtered animal is halal, it does not mean that anyone who recites the shahadatayn shall definitely be admitted to paradise and be saved from the chastisement of hellfire. He also has to accept the obligatory things in religion and be

bound to them; otherwise, recital of the shahadatayn is not the end of the story. Is he who denies the Resurrection a Muslim? Or, is he who rejects prayer and zakat a ?Muslim

So, recital of the shahadatayn is only a symbol and indication that he believes in "what Allah has revealed" and is apparently considered as a Muslim. But if he has no faith in God in his heart, denies the Resurrection, or does not heartily accept the essentials of Islam, he is actually an infidel no matter how ostensible a Muslim he might be. As such, outward Islam is one thing while real faith which saves one from the chastisement in the hereafter is another. When it is said that one of the criteria of tawhid is monotheism in the legislative Lordship, it refers to

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the source of one's otherworldly bliss and protection from eternal damnation; .otherwise, to establish outward laws, recital of the shahadatayn is enough

Righteous reference authorities of legislation and sovereignty in Islam

Hence, according to the Islamic perspective and legislative Lordship, it accrues that the Legislator in principle must be God and beside Him, no one has the right of legislation. Now, the question here is: Is there no other type of legislation which is legitimate? In reply, it has been stated before that subordinate to God's legislation and not parallel to Him, there are those who have the right to enact law by God's .leave, and that law is credible and binding with the permission of God

(وَلاَ تَقُولُوا لِمَا تَصِفُ أَلْسِنَتُكُمُ الْكَذِبَ هَذَا حَلالٌ وَهَذَا حَرَامٌ لِتَفْتَرُوا عَلَى اللّهِ الْكَذِبَ إِنَّ الَّذِينَ يَفْتَرُونَ عَلَى اللّهِ الْكَذِبَ لاَ يُفْلِحُونَ)

Do not say, asserting falsely with your tongues, 'This is lawful, and this is unlawful,' to" fabricate lies against Allah. Indeed those who fabricate lies against Allah will not be (felicitous."(۱

As such, one should not say to himself, "This is halal and that is haram" for halal and haram do not depend on your opinion and preference. This is a form of polytheism.

:You have to see what God has said. In another place, the Qur’an thus states

(قُلْ ءَاَللّهُ أَذِنَ لَكُمْ أَمْ عَلَى اللّهِ تَفْتَرُونَ)

Say, ‘Did Allah give you the sanction [to do so], or do you fabricate a lie against“ (Allah?’”(۲

Yes, God gave the Prophet (s) authority to legislate and to bid and forbid the people, saying: “Obey Allah and

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.Surah an-Nahl ۱۶:۱۱۶ -۱
.Surah Yunus ۱۰:۵۹ -۲

(obey the Apostle”(۱) and “Whoever obeys the Apostle certainly obeys Allah.”(۲

Of course, the Messenger of Allah (s) would not act according to his own desire. Rather, his action was based on divine inspiration and revelation. At times when a verse would not be revealed to him, he used to receive divine inspiration [ilham] and :non-Qur’anic revelation [wahy] by the legislative will of God

(وَمَا يَنطِقُ عَنِ الْهَوَى إِنْ هُوَ إِلَّا وَحْيٌ يُوحَى)

He does not speak out of [his own] desire: it is just a revelation that is revealed [to“ (him].”(۳

Therefore, if a person is authorized by God to enact laws, any law he enacts becomes respected and binding. The Shi‘ah believe that such an authority granted to the Holy Prophet (s) is also granted to the infallible Imams (‘a). Of course, in scholastic theology [‘ilm al-kalam] clear proofs substantiating this claim have been presented. One of these proofs is the tradition about the two weighty things [hadith ath-thaqalayn] in :which the pure Imams (‘a) are treated as partners [‘idl] of the Qur’an

إِنِّی تَارِکٌ فِیکُمُ الثَّقَلَیْنِ: کِتَابَ اللهِ وَعِتْرَتِی أَهْلَ بَیْتِی، مَا إِنْ تَمَسَّکْتُمْ بِهِمَا لَنْ تَضِلُّوا بَعْدِی أَبَداً .

Verily, I am leaving among you two weighty things [thaqalayn]: The Book of Allah and“ my progeny [‘itrati], the members of my Household [Ahl al-Bayt]. If you hold fast to ”.them, you shall never go astray

Here we are not in pursuit of presenting and proving the Shi‘ah doctrines but to point out that those who believe in this principle acceptable

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.Surah an-Nisa’ ۴:۵۹ -۱

.Surah an-Nisa’ ۴:۸۰ -۲

.Surah an-Najm ۵۳:۳-۴ -۳

to the Shi‘ah regard the infallible Imams (‘a) besides the Holy Prophet (s) to also have such authority. On the contrary, there are also those who say that only the Messenger of Allah (s) was infallible and incumbent upon us to follow. But this difference in .opinion does not make such a difference as far as our subject is concerned

Assuming that we were living at the time of the Holy Prophet (s) who appointed a governor of a city and asked us to obey the governor, was it obligatory to obey the governor under the aegis of obedience to the Holy Prophet (s), or not? Was obedience to him inconsistent with obedience to the Prophet (s) and God and the sovereignty of Allah? The answer is negative because that person was the representative and envoy of a prophet who in turn had been designated by God. Our belief is that the infallible .Imams (‘a) also have the same prerogative

For the present time, they have also designated individuals on the basis of quality and not personality, and the one who is closest to the Infallibles (‘a) and the most righteous is appointed by them to rule. Now, sometimes this belief can be proved through the Maqbulah(۱) of ‘Umar ibn Hanzalah,(۲) Marfu‘ah(۳) of Abu Khadijah(۴) and other traditions, and at times through rational proofs. Through various statements .fuqaha have engaged in proving it

Thus, the essence of the theory is that just as the Holy Prophet (s) during his lifetime

appointed

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[.Maqbulah: a hadith to which one may make acceptable reference. [Trans -۱

The maqbulah tradition is the tradition of 'Umar ibn Hanzalah who asked Imam as- -۲ Sadiq ('a) whether it was permissible in the event of a disagreement between two Shi'ah concerning a debt or a legacy to seek the verdict of the ruler or judge. He replied: "Anyone who has recourse to the ruler or judge, whether his case is just or unjust, has in reality had recourse to the taghut (i.e., the illegitimate ruling power). Whatever he obtains as a result of their verdict, he will have obtained by forbidden means, even if he has a proven right to it, for he will have obtained it through the verdict and judgment of the taghut, that power which God Almighty has commanded him to disbelieve in: "They desire to seek the judgment of the Rebel, though they were commanded to defy it" (Surah an-Nisa' ۴:۶۰)." Imam as-Sadiq then advised the Shi'ah to refer to one of the fuqaha, i.e. one learned in the principles and ordinances of Islamic law or, more generally, in all aspects of the faith. See Wasa'il ash-Shi'ah, vol. [.۱۸, the section on the attributes of judges, pp. ۹۸-۹۹. [Trans

Marfu'ah: 'traceable' – refers to any tradition that can be traced back to a Ma'sum -۳ (infallible – referring specifically to the Prophet (s) and the Imams ('a)), regardless of .the continuity in its chain of transmission

Abu Khadijah, one of the trusted companions of Imam as-Ṣadiq ('a), relates: "I was -۴ commanded by the Imam ('a) to convey the following message to our friends (i.e., the Shi'ah): 'When enmity and dispute arise among you, or you disagree concerning the receipt or payment of a sum of money, be sure not to refer the matter to one of these malefactors for judgment. Designate as judge and arbiter someone among you who is acquainted with our injunctions concerning what is permitted and what is prohibited, for I appoint such a man as judge over you. Let none of you take your complaint against another of you to the tyrannical ruling power'." Wasa'il ash-Shi'ah, [.vol. ۱۸, p. ۱۰۰. [Trans

a person to rule and govern a region of the Islamic land and obedience to him was

incumbent upon the people of the region, or just as the Commander of the Faithful (‘a) during his caliphate appointed individuals as governors and rulers of Islamic territories such as Bahrain, Ahwaz, Egypt, and others and obedience to them was obligatory, during this period of occultation [ghaybah] those who are like Malik al-Ashtar in political acumen and knowledge of jurisprudence and have the competence, merit and capability to lead and administer the Islamic society are designated to take charge of the government according to the principle of wilayah al-faqih and .obedience to them is incumbent upon us

This is not in conflict with the legislative Lordship of God. In fact, their sovereignty is under the auspices of Divine Lordship. Since God has commanded His Prophet (s), and the Prophet (s) in turn, appointed them as governors, or since the infallible Imam (‘a) designated his specific or general deputies, it is incumbent upon us to obey them. In other words, obedience to the governor is obedience to the Prophet (s) and God. On the contrary, opposition to him is tantamount to opposition to the Prophet (s) and .opposition to the Prophet (s), in turn, is tantamount to opposition to God

In the same vein, obedience to the wali al-faqih is obedience to the infallible Imam (‘a) and the Prophet (s), and thus, to God, and disobedience to him is disobedience to the infallible Imam

a) and the Prophet (s), and thus, to God. This point has been categorically stated in‘) :the Maqbulah of ‘Umar ibn Hanzalah when Imam as-Sadiq (‘a) says

يَنْظُرُ إِلَىٰ مَنْ كَانَ مِنْكُمْ قَدْ رَوىٰ حَدِيثَنَا وَ نَظَرَ فى حَلاَلِنَا وَ حَرَامِنَا وَ عَرَفَ أَحْكَامَنَا فَلْيَرْضُوا بِهِ حَكَمًا فَإِنّى قَدْ جَعَلْتُهُ عَلَيْكُمْ حَاكِمًا. فَإِذَا حَكَمَ بِحُكْمِنَا فَلَمْ يَقْبَلْهُ مِنْهُ فَإِنَّمَا إِسْتَخَفَّ بِحُكْمِ اللهِ وَ عَلَيْنَا رَدَّ وَ الرَّادُّ عَلَيْنَا الرَّادُّ عَلَىٰ اللهِ وَ هُوَ عَلَىٰ حَدِّ الشِّرْكِ بِاللهِ.

They must seek out one of you who narrates our traditions, who is versed in what is“ permissible and what is forbidden, who is well acquainted with our laws and ordinances, and accept him as judge and arbiter, for I appoint him as judge over you. So, anyone who rejects his judgment is as if he belittles the judgment of Allah and rejects us, and anyone who rejects us is as if he rejects Allah, and rejection of Him is

(tantamount to associating partners with Him."(1)

The Imam ('a) said that it "is tantamount to associating partners with Him" because polytheism is the opposite of monotheism, and one of the pillars of monotheism is belief in the legislative Lordship. Now, if we accept the sovereignty of God, and under His auspices, the sovereignty of the Prophet (s) and the Imam ('a) and those who are designated by God through the Imam ('a), it follows that we have accepted monotheism in the legislative Lordship.

And if we reject it, it means that we are committing polytheism in

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1- Usul al-Kafi, vol. ۱, p. ۶۷; Wasa'il ash-Shi'ah, vol. ۱۸, ۹۸.

the legislative Lordship. Thus, "rejection of them" means that if a person rejects the fuqaha designated to rule over the people it is as if he has rejected the Imams ('a). That is, if a person says, "I do not recognize wilayah al-faqih," he is saying, "I do not recognize the infallible Imam" and if a person does not accept the Imam ('a), he has in a sense associated partners with God because he has rejected an aspect of His legislative Lordship. Of course, this is spiritual and esoteric polytheism and it does not render a person ritually impure [najis].

As such, it is established that if a person accepts that sovereignty intrinsically belongs to God alone, he has to accept also that at a lower level, it also belongs to the Messenger of Allah (s). It is under the auspices of God's sovereignty that the sovereignty of the Messenger of Allah (s) and that of the Imams ('a) and their deputies are realized and acquire legitimacy. If we uphold the legitimacy of rule in a different way, we have actually upheld a form of polytheism in sovereignty.

Therefore, the rational reason why the Islamic system must be based on divine laws and under a ruler designated by God is the legislative Lordship of God. If we try to properly understand tawhid, we will arrive at the same conclusion, and if certain people reject this conclusion, their faith is essentially weak and their [state of belief in]

tawhid is impure and

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.tainted with shirk

One may ask, “Why must laws of society be divine”? If certain people do not believe in God and His law and enact and implement laws by themselves, will the society not be reformed? If so, how have certain societies in the world reached a certain stage of life without acting upon God’s law? This is a skepticism raised by many “intellectuals” who ask, “Why should law be promulgated by God?” They are of the opinion that by using their intellect people can make laws and act upon them, without arising any problem.

Reasons behind God’s legislative monopoly

In order reply to this skepticism, it must be noted that man is a unitary being but he has various organs, senses and dimensions, and these dimensions are linked and knitted together. Man does not have an economic dimension alone. So long as one enacts laws for the economy and administers the economic dimension of his society, his condition shall be in order. His economy is related to his polity. His polity is related to his civil and social laws. His civil laws are related to his criminal laws, and all these are related to the international law. Their totality is firmly connected to man’s spiritual, psychological and moral dimensions.

Man does not constitute ten beings. He does not have ten souls either. Man has a divine spirit which has different dimensions and aspects, all interconnected. So, if there is a defect in one dimension, it will naturally affect the others. God who

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has created man and ordained social life for him has endowed his natural disposition [fitrah] with elements which naturally and innately draw him toward the establishment of social life. Therefore, God has a purpose in the creation of man which is to attain human perfection under the aegis of social life, and advance all dimensions of his existence which are at the service of the spiritual and religious dimension toward

:perfection, and finally, achieve the ideal

(وَمَا خَلَقْتُ الْجِنَّ وَالْإِنسَ إِلَّا لِيَعْبُدُونِ)

(I did not create the jinn and humans except that they may worship Me."(۱"

What is said must take place under the auspices of worship ['ibadah] which is inextricably interwoven with tawhid and rububiyyah; otherwise, human perfection will not materialize. Of course, through another way, outward order may also be established in society which is worthy of reflection; for example, the "order" which exists today in countries whose symbol is America. It can be observed that in all high schools in the model of "civilized" countries in the world armed policemen must be stationed. Notwithstanding the presence of armed units, killing and crimes take place daily in these high schools. This is the order established by mankind. The same is true .in cases of other corruption and crimes

Even assuming that without acting upon divine laws and paying attention to the spiritual dimension of man, outward civil order can still be established in society, yet the ultimate purpose of his life can not be ensured. Is the life

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۱- Surah adh-Dhariyat ۵۱:۵۶.

of man that of a termite? Or, is human society similar to bees which can be established through an outward order? All these systems, security measures, advancement, growth, science, industry, and technology are means to evolve the ?human soul and get closer to God. Who can grasp this relationship

Who can identify which type of food or manner of living will contribute toward achieving proximity to God? Who ascertains whether eating pork and drinking wine will contribute toward the achievement of happiness? Notwithstanding their progress in the science of medicine, medical scientists of the world conclude that excessive consumption of alcohol may be harmful for the brain cells, but they do not know

whether it affects the eternal bliss of man because they have no experience in this .regard being beyond empirical observation

Man's life must be codified in such a manner that all dimensions are taken into account and the focus is not only on his physical health and wellbeing and political-economic condition. The interrelationship of all dimensions must take place in a cohesive and harmonious system. No one except God the Creator, with his all-embracing knowledge can establish a relationship between these dimensions and guide them toward ultimate perfection. This is the reason why it is God who must enact the law. Furthermore, which legislator will set his personal interests aside at the moment of legislation? It is clear that any group that gains power tries to enact and implement laws which serve its interests. For instance, in Muslim

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countries, as soon as an administration assumes office, it enacts new rules and regulations which are mostly in favor of the ruling party. It makes no difference whether it is leftist or rightist. This is human nature, and by the way, most human .beings are fallible

Only God is immune from individual or group favoritism and His interest is not served in any way. The laws of God are neither favorable nor unfavorable to Him. His only concern is what is good or bad for human beings. Thus, on one hand, His knowledge is boundless, and on the other hand, He has no personal interest in enacting laws. Moreover, He has the right of Lordship over His creatures. If man wants to attain perfection, he has to observe the right of Divine Lordship. This is another subject that .requires explanation which is not possible in this limited time

Human beings have rights over one another and they know of latitudinal rights [huquq al-'Ardht] like the right of the farmer over the worker and vice versa, or the right of the ruler over the people and vice versa. The people know these rights, yet do they know the right of God over the people and the manner of granting it? The hallmark of .[the Islamic outlook is that above all rights is the right of Allah [haqq Allah

Therefore, it must first be granted so that the rights of people can be given under the aegis of God's right. Can the rights

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of men be considered in statutory laws without taking the right of God into account? It is certainly unjust if not cruel, to deny the rights of God! With this ingratitude, can one ?attain human perfection

:Which ingratitude is greater than ingratitude to God which the Qur'an points out

"Polytheism is indeed a great injustice"?(١)

The greatest of injustices is injustice toward Divine Lordship. As such, if we do not take into account the right of God, we will commit a great injustice. How then will we be just to others? How can a person be just who is unjust to his Creator? As we have said, one of the forms of shirk is the belief in other than God's having the right of .legislation

Since God is perfectly aware of our interests, gains no benefit in legislation and has the right of legislative Lordship over man, the law of God must be observed, and rules obeyed which have been introduced by those who are designated by God as far as :they are authorized, so that man is not guilty of what the following verse describes

(قُلْ أَرَأَيْتُم مَا أَنزَلَ اللّهُ لَكُم مِّن رِزْقٍ فَجَعَلْتُم مِنْهُ حَرَامًا وَحَلاَلاً قُلْ ءَاللّهُ أَذِنَ لَكُمْ أَمْ عَلَى اللّهِ تَفْتَرُونَ)

"Say, 'Have you regarded what Allah has sent down for you of [His] provision, whereupon you made some of it unlawful and [some] lawful?' Say, 'Did Allah give you the sanction [to do so], or do you fabricate a lie against Allah?'"(٢)

And in another verse, it is

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١- Surah Luqman ٣١:١٣.

٢- Surah Yunus ١٠:٥٩.

:stated

(وَلاَ تَقُولُوا لِمَا تَصِفُ أَلْسِنَتُكُمُ الْكَذِبَ هَذَا حَلالٌ وَهَذَا حَرَامٌ لِتَفْتَرُوا عَلَى اللّهِ الْكَذِبَ إِنَّ الَّذِينَ يَفْتَرُونَ عَلَى اللّهِ الْكَذِبَ لاَ يُفْلِحُونَ)

Do not say, asserting falsely with your tongues, 'This is lawful, and this is unlawful,' to" fabricate lies against Allah. Indeed those who fabricate lies against Allah will not be (felicitous."(۱

Therefore, in order to observe the right of legislative Lordship of God, one should first refer to the law of God and then examine whom He has granted the authority to enact laws or whom He has granted the authority to implement them. The reason for this is that if the implementation of those laws is beyond His command, exercise of authority [tasarruf] over the servants of God without the permission of their Master will again .take place

In the divine perspective, exercise of authority even on oneself is not permissible if it is against the pleasure of God, let alone exercise of authority over others. As such, man has no right to commit suicide. In Western liberalism, it may possibly be said that since man owns himself, he has the right to commit suicide if he wants to, but in the divine system it is not so. Man has no ownership of himself as he belongs to God. Thus, he has no right to commit suicide because God has not permitted him to do so. The authority over the life and soul of man is with Him and with none else. Hence, how can one who has no

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۱- ۱۶:۱۱۶ Surah an-Nahl.

?right to kill himself, grant permission to others to kill him

None has the right to amputate his hands or blind his eyes because the Owner of these body limbs is God who has not given him that permission. How can a person give authority to another to amputate the hand of a thief or imprison a person? No

one has such a right because others are also servants of God and without the permission of God, one cannot exercise authority over them.

Thus, in legislation as well as in the implementation of laws, the permission of God is binding. In a nutshell, the Islamic political theory in this regard stands on the proposition that God's legislative Lordship is a pillar of tawhid and he who does not observe this pillar commits kufr similar to that which is committed by Iblis.

Session ۱۸: Requisites of Legislation and Its Station in Islam

point

In Islamic legislation the goal of law is to protect the material and spiritual interests of human beings. Subsequently, a question is raised: Who should be the legislator? There are different views regarding this. Generally, the credibility of two conditions among political and legal philosophers is common: One is that the legislator must be one who knows the purpose of law. The second is that he should not sacrifice the interests of society before the altar of personal interests.

Legislator's qualifications as exclusive to God

Here, apart from taking into account the above two qualifications, Islam holds that the legislator must definitely be aware of all the material and spiritual interests of man and not

favor personal and group interests at the expense of the interests of society. Islam also highlights the point that legislation is basically the right of the one who can bid and forbid human beings. Even if certain individuals have great knowledge of the interests of society and consider the interests of society as more important than individual and group interests, still the right of legislation does not essentially belong to them because every law consciously or unconsciously contains command and prohibition.

In the session in which we talked about the relationship between right and duty, we

explained that every law explicitly, implicitly, or suggestively commands and prohibits. Sometimes it says, "Don't encroach upon the property of people," which is an explicit prohibition, or "Honor the property of others," which is an explicit command. At times, the language of law is bidding and forbidding. For example, it says that the right of so-and-so is established so others should observe this right. This is a command which is embedded in law. Similarly, others are not supposed to transgress this right, and this .is a prohibition which is embedded in law

Thus, the legislator must have the right to bid and forbid others and this right essentially belongs to God. The first condition is that the legislator must have the most knowledge and awareness of the interests of men and the highest form of such a condition is present in God because He is the most knowledgeable of what is good for His

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servants. Also, the second condition is that the legislator should not consider the individual interests as more important than the social interests and the highest form of such a condition is present in God because He acquires no benefit from the actions .of His servants

For all people to be faithful does not benefit Him whatsoever. Also, for all people to become infidels does not harm Him whatsoever. Observing or violating laws does not affect Him at all. Meanwhile, the third condition is something which none except God intrinsically possesses, which is the right over others to bid and forbid. What right do some people have to rule over others? All are equal before God and it is He who is the Owner of all human beings. The entire human race solely belongs to Him and it is only .He who has the right over people to bid and forbid

In other words, human beings should recognize God's Lordship and give His right of Lordship. Thus, Lordship manifests itself in two senses: one in the ontological sense; that is, man has to regard the management of the universe as intrinsically belonging to God. He should believe that God has set innate laws in the universe. The sun and moon move by His leave and command, and the transformations in the universe take

place according to His will. Thus, He is the cosmic Lord and Cherisher of the universe, ,Master of the Command, and the Regulator and Maintainer of the universe. Similarly

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he has to believe that God also has the legislative Lordship. During the previous session we discussed the point that legislative Lordship belongs to God and monotheism in the legislative Lordship requires that man should acquire ranks from God alone, obtain the law from Him, while the implementer implements it in society by .God's permission

Objection on the necessity of legal authorities' plurality

This gives rise to skepticism thus expressed: You say that the law must be enacted by God for this is what monotheism in the legislative Lordship demands, but we see that in society we need laws which God has not enacted. The people enact these laws and were they not to do so, society would be left in abeyance. For example, so many laws in our Islamic society are enacted by the Islamic Consultative Assembly. These laws, needed by society, have not been enacted by God and the Prophet (s) and an illustrious example of these laws which everybody is familiar with are traffic laws. Without the existence of these rules, there would be so many accidents in the world .endangering the lives and assets of people

On the one hand, society is in need of such laws, and on the other hand, God has not enacted these relevant laws. Any driving and traffic rule is present neither in the Qur'an nor in the words of the Prophet (s) and the Imams ('a). So, how can all laws be divine and godly and enacted by God? If common laws enacted by human legislators are also

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binding, it follows that we have two sources of legislative authority; one is God and the other, the people—which according to you is tantamount to polytheism in religious legislation. This skepticism is expressed in various forms, and already been .addressed, but unfortunately, it is not understood the way it should be

Reply to the first objection

In replying to the legitimate question raised, we need to pay attention to two points. One is that the law has numerous terminologies. Sometimes, law is referred to as general rules and does not include specific laws, executive orders and instructions. At times, the term “law” is so broadly understood that it includes even an administrative instruction issued by the head of an office to his subordinates. In other words, law is a term with general and specific meanings and both are correct.

The second point is that in Islam there is a set of fixed laws which under no circumstances can be amended. They are fixed for all people and at all times. There is also a set of alterable laws which follow the circumstances of time and place. While keeping in view the general principles elucidated in Islam, the mujtahidin, religious scholars and fuqaha have to legislate and enact these alterable laws.

What needs emphasis is that fixed laws are promulgated by God, and general frameworks are to be determined for alterable laws. It is impossible for all fixed and alterable laws to be enacted by a legislator uniformly and evenly all over the world. The alterable laws needed

at all times and places are not limited and confined. The mental and intellectual capacity of man cannot contain all alterable laws needed from the beginning to the end of the world. As such, every part of these laws must be enacted at a particular time.

Assuming that during the early period of Islam when there was no trace of automobiles and vehicles, if it was said that drivers must keep to the right, the people would never understand and comprehend it. These laws must be enacted in every period according to specific requirements and circumstances, but they have a framework already determined by God. Those who enact these laws should follow that framework. There is a set of values which should not be neglected. This important task should be shouldered by those who know the fixed laws and the

.framework for alterable affairs better than everyone else

Thus we mean that laws, which are divine and from God, are fixed and eternal laws. Secondly, God has already determined the framework for alterable laws which are the criterion for identifying the merit of alterable laws. In this regard, the Qur’an has :an emphatic expression

(وَوَضَعَ الْمِيزَانَ ۞ أَلَّا تَطْغَوْا فِي الْمِيزَانِ)

(And set up the balance, declaring, ‘Do not infringe the balance!’”(۱)“

What the divine and monotheistic outlook emphasizes and demands is that since law includes both command and prohibition, the one who has the right to enact law is he who has the right to bid and forbid the people and that

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.Surah ar-Rahman ۵۵:۷-۸ -۱

is no one but God. Human beings have essentially no right to bid and forbid one another, let alone enact and implement laws. If alterable laws suitable to the requirements of time and place are supposed to be enacted, the authority to enact laws must come from God because it is He who has the intrinsic right to command and .forbid. He has to grant others that right so that laws they enact become binding

Second objection: absence of God’s will in legislation

Another objection being raised is that considering the authority of God as a requisite in legislation is nothing but empty rhetoric. It is not that given this requisite, changes are really taking place in the legislative process. Mere playing with words is taking place. For example, in the Islamic Consultative Assembly a certain number of people gather and deliberate what law they will enact about a particular alterable social .affair at a given period

Finally, they enact a certain law. What difference will it make whether God has

granted authority or not? This is mere rhetoric. The criterion of the law's credibility is that a number of experts examine the pros and cons and enact a law after identifying its merits. Is there any difference whether this law is enacted by individuals who have so-called legislative authority, or by other experts? The objection is noteworthy.

Reply to the second objection

The objection asserts that for a person to authorize another to do a certain work does not change the reality of the work. I ask, can social life be

established without these authorizations? Assume that a person has parked his vehicle and you need it due to an emergency. Can you drive his vehicle without his permission, go, attend to the emergency, and return? Prior to his permission, do you have the right to use his vehicle? If you used it without his permission, then you did something against the law, giving him the right to sue you in court and ask for your conviction because he had not given you permission.

Consider as another example a man and a woman who want to marry each other. They have known each other for years. They have been working together in an office and are familiar with each other's character. They are well- acquainted with each other's families. Yet, as long as the wedding contract is not signed or a ceremony acceptable in their custom not held, their intimate relationship will be illegitimate. It is true that the marriage contract is mere verbal pronouncement that is observed through the consent of both parties, but it is an utterance that renders thousands of unlawful things lawful and also thousands of lawful things unlawful.

The social life of man depends on the same authorization. In principle, social life exists through the same authorization, permission, signing, and rejecting. Another example; assume that somebody is supposed to be appointed as your city mayor, but his letter of appointment is yet to be issued and the meeting for his appointment is awaited, does he

have the right to go to the mayor's office, occupy the mayor's seat and start working? He has no such right and the employees will kick him out and say, "This is the table of the mayor!"

If he says, "This table belongs to me, and a month from now I'm supposed to be your new mayor," they will reply, "As soon as we receive your appointment, you will be our mayor." If he says, "It's only a matter of a signature and authority to be issued by the minister." They will say, "Yes, it's the same signature that will give you authority." All social transactions acquire official status through a signature; so with legislation. When legislation is a prerogative of God, as it really is, only through His authority can rules enacted by others become binding; otherwise, those rules will never acquire legitimacy and credibility:

(قُلْ ءَاللّٰهُ أَذِنَ لَكُمْ أَمْ عَلَى اللّٰهِ تَفْتَرُونَ)

"Say, 'Did Allah give you the sanction [to do so], or do you fabricate a lie against Allah?'"(1)

In the absence of God's authority, what right do you have in saying that a certain act is permissible or not, halal or haram? This is the meaning of enactment of law—that is, this act is permissible while that act is not permissible. In simple terms, this is halal and that is haram. In the absence of authorization from God, can you issue such decrees? The difference between the Islamic Consultative Assembly and the National Assembly of the ex-regime lies

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١- Surah Yunus ١٠:٥٩.

in this—this assembly is formed through the one who is designated by God.

That is, the wali al-faqih gives it the permission to enact alterable laws and his authorization gives credit to the bills of the Islamic Consultative Assembly. Once the wali al-faqih is granted this right by the Imam of the Time (may Allah expedite his

glorious advent), others do not have such a right. Also, once the Imam of the Time (may Allah expedite his glorious advent) is granted this right by God, others do not have such a right. The one who has been authorized by God directly or indirectly can exercise authority with respect to the affairs of others and command them to do or not to do a thing. But the one who has no authority has no right to bid and forbid, and .his command and prohibition are not binding

In my theoretical discussions, I do not want to cite quotations from individuals, but) Imam Khomeini cannot be placed in the rank of other individuals. His statements were derived from the Book and the Sunnah. As such, I shall quote his statements.) In one of his speeches, he explicitly said: "If the President is not designated by the wali al-faqih, he is taghut and it is not permissible to obey him."(١)

The President is elected by the people through a general suffrage, but if he is not granted authority by the wali al-faqih, he is taghut as said by the Imam. His command and

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.Ṣahifeh-ye Nur, vol. ٩, p. ٢۵١ -١

prohibition are not binding and it is not permissible to obey him. In all his decrees of confirmation [tanfidh] of the President, the Imam said: "I do hereby designate [nasb] you." (In some instances, he stipulated: "By virtue of the divine guardianship [wilayat-e ilahi] I have, I do hereby designate you to the Presidency.") This was in spite of the .people's vote, and their vote was confirmed to be valid

Of course, the people are supposed to participate in social activities. It is their religious duty to get involved in elections. As such, during elections, the Imam would say: "It is a religious duty to participate in the elections. In the end, however, the religious credibility of the act of every legislator or designated authority must be traced back to God for it is He who is the Authority in the world. God has granted the Prophet (s) and the Imams ('a) the authority to rule and legislate. The other person would be one designated by the Prophet (s) and the infallible Imam ('a) through a

general designation such as in the case of the wali al-faqih, or through a specific designation as in the case of the governors and deputies during their time. Such a person acquires legitimacy through the authority of any of the infallible personages. .Once he is given authority, he acquires credibility

So, having or not having authorization, having approval or not is the difference which exists in all social issues. What is the difference between a

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mayor" whose appointment is not yet announced and the others? What is the" difference between the "Minister" of Training and Education whose appointment is not yet announced and the others? It is true that the appointment is soon to be released but today he has no right to engage in any kind of official transaction. When he receives his letter of appointment, he will be officially commissioned and by means .of a single signature, exercise authority over the public treasury

A person may turn over his millions worth of property to you, and grant you the authority to spend it in whatever way you like. He may also give it as a public endowment. In any case, by uttering a single sentence, "I do hereby give my wealth," everything is finished, and to exercise authority over his wealth becomes halal and permissible. But in the absence of his authority and grant, it is haram to exercise authority over his wealth. Anyone who exercises authority over his wealth shall be deemed criminal. In general, all social affairs follow this sort of authorization. In the absence of this permission and authority, nothing in social affairs can be deemed official. Given this, how can it be said that anyone who under the name of God wants ?to rule over the people and bid and forbid them is needless of any authority

Is it possible to rule over the servants of God without His permission? As the people are not our servants, we have

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no right to rule over them. They are servants of God. The ruler and the ruled are equal

before God. In the absence of God's authorization, the president and the presided, the leader and the led are equal. When God authorizes a person, his command and .prohibition become binding on others

Man's mastery over his destiny

Another issue is the concept of man's mastery [hakimiyyah] over his destiny raised in newspapers and even in some speeches of the intellectuals and roundtables organized by the Islamic Republic of Iran Broadcasting (IRIB) saying that "human liberties are honorable because according to the Constitution, people are masters over their destiny," It is thus, necessary to explain the various dimensions of this .subject

The word "hakimiyyah" (mastery or sovereignty) is discussed in two fields of law. (Of course, since the two terms are synonymous, those who do not have enough information tend to use them interchangeably.) One is in public international law in which it is said that every nation has mastery over its destiny (sovereignty). As a principle in public international law, this term governs the relations between .countries, their position in relation to one another and against imperialist countries

During the ۱۸th and ۱۹th centuries, especially in the Western world, the sphere of colonialism was extended. Any state that possessed power and force occupied a land at the point of the bayonet or through trick and ruse, or placed a satellite state there, or sent its envoy to rule over there. That is, the destiny of a nation

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was controlled by others, or it became the protectorate of another country. In essence, the term "mandate" [qaymumiyyah] is a term used in international law. After the people became aware of this global oppression and rose up to claim their rights, .the principle of sovereignty of nations was raised

Gradually, it was established in international law that every nation had mastery over its own destiny. That is, others have no mandate or colonial right over any nation. "National sovereignty" means that every nation is independent in relation to another

and has mastery over its own destiny. No nation has the right to regard itself guardian of other nations and no state has the right to consider itself mandatory of other states ..This is the terminology used in international relations

The second term is sovereignty of individuals within a society. This principle is related to basic rights. A society is comprised of factions and groups, but no faction or group has the right of dominance over another faction or group. This is opposed to the class-oriented views that existed in many countries throughout the world in which the ruling class was already specified and defined. For example, a family with one thousand members had the right to rule and anyone who wished to rule had to belong to that class. The rulers belonged to the noble class, landowners, or a specific race. This principle of mastery of every person over his own destiny negates the dominance of a particular class or

person. So, within society no person can automatically say, "I have dominance over other people." No group, class or race has the right to regard itself dominant over .other groups, classes, or races. This is the principle of human rights

All these rights and principles apply to the relationship between human beings, and not the relationship between man and God. Those dealing with these principles—whether they profess any religion or not—have never considered the relationship between man and God, let alone saying that God also has no right to exercise sovereignty over man. They were not interested in it. Instead, their interest was determining relations between people—i.e., did a country have the right to exercise sovereignty over another country? Did a certain group, faction, class or individual have the right to dominate others and shoulder the burden of determining their ?destiny

That every person is master over his or her own destiny does not mean that God also does not have that right. Now, let us assume that all those who drafted these laws and stipulated these principles professed no religion and did not believe in God. But it is enshrined in the Constitution of the Islamic Republic that the people have mastery

over their own destiny, provided God is the absolute Sovereign. The evidence is the tens of provisions in the Constitution which stipulate that divine laws must be implemented. Given the existence of these provisions, how can a person imagine that this right of sovereignty stipulated for individuals negates

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the sovereignty of God?! Can any intelligent person have such an understanding of the Constitution of the Islamic Republic?

Lack of contradiction between mastery of man and sovereignty of God

For clarity sake, I shall cite an example from psychology on the issue of "self-confidence". It is said that man should have self-confidence. This sentence can be heard and read in books more than often. One of the outstanding pivots and dimensions of many discussions conducted daily in radio and television, especially in discussions on child-rearing and family discourses, is relevant to the issue of self-confidence. For example, it is said that a child must be brought up in such a manner that he or she acquires self-confidence.

Dealing with the youth must be such that they acquire self-confidence. Similarly, when raising moral issues it is much emphasized that individuals must have self-confidence and must not depend on others. Meanwhile, in Islam we have another concept called "trust and reliance in God" [tawakkul]. That is, man should not expect anything from himself vis-à-vis God. He has to seek everything from Him and to regard Him as the Omniscient and Omnipotent:

(وَإِنْ يَمْسَسْكَ اللَّهُ بِضُرٍّ فَلاَ كَاشِفَ لَهُ إِلاَّ هُوَ وَإِن يُرِدْكَ بِخَيْرٍ فَلاَ رَآدَّ لِفَضْلِهِ يُصِيبُ بِهِ مَن يَشَاءُ مِنْ عِبَادِهِ وَهُوَ الْغَفُورُ الرَّحِيمُ)

"Should Allah visit you with some distress, there is no one to remove it except Him; and should He desire any good for you, none can stand in the way of His grace: He grants it to whomever He wishes of His servants, and He is the All-forgiving,

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(the All-merciful."(١)

Benefit and loss comes from Him and the will of man vis-à-vis the will of God is nothing. Compared to the majesty of God's other creatures, he is utterly insignificant. In the teachings of Islam and the Qur'an, there has been an endeavor for man to be trained in such a manner that he always regards himself insignificant, humble and abject before God. The foundation of Islamic training rests upon the Lordship of Allah .and the servitude of man

They might ask: How is it possible for man to have self-confidence and at the same time regard himself insignificant before God? Is belittling oneself before God consistent with self-confidence, self-esteem, personality development, and similar ?concepts tackled in psychology especially in educational psychology

This is similar to the objection they raised about sovereignty [hakimiyyah] which belongs to political issues and is related to the question of dominance over a person while this objection is raised in relation to psychological, moral and educational issues. Concerning the psychological question, the emphasis is on self-confidence vis-à-vis reliance on other people—the child must be trained in such a manner that he or she does not need to rely on his or her parents, friends, neighbors or relatives and can stand on his or her own feet. That means not to rely on other people and be .dependent on them; but it does not mean to regard oneself independent of God

Essentially, the discussion is related to a person's relationship with other people. The concept of

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١- Surah Yunus ١٠:١٠٧.

self-confidence" means that you should behave and train yourself in such a way that" you do not rely on others, and this is also emphasized in Islam. In the conduct of the Prophet (s) and the pure Imams('a) it is highlighted and emphasized, but unfortunately, we pay little attention to them, thinking they have been newly arrived

.at by the West

During the time of the Holy Prophet (s) his companions were trained in such a manner that if someone was riding a horse and the whip in his hand fell on the ground, he would not ask his comrade who was moving beside his horse to pick it up for him. He would dismount, pick up the whip and ride again! This is the Islamic training which urges us to stand on our own feet, to carry our own load, not to be dependent on others, and not to covet others. But this does not mean that we should also regard :ourselves independent of God

(يَا أَيُّهَا النَّاسُ أَنتُمُ الْفُقَرَاءُ إِلَى اللَّهِ وَاللَّهُ هُوَ الْغَنِيُّ الْحَمِيدُ)

O mankind! You are the ones who stand in need of Allah, and Allah—He is the All-“ (sufficient, the All-laudable.”(١

Is it possible for man who is in a state of total poverty and need to regard himself needless of God? This is also a form of polytheism. Not to rely on God is diametrically opposed to the spirit of Islam and the entire message of the Qur’an. There are hundreds of Qur’anic verses and traditions in

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.Surah Fatir (or al-Mala’ikah) ٣٥:١٥ -١

this regard which enjoin man to regard himself as nothing before God and to ask Him for everything. Self-confidence is meant to determine the relationship between human beings, and teach them not to rely on other people because no one is more .capable than another

This is the reply to the question on self-confidence and reliance on God Similarly, in the realm of political issues such as that of individual sovereignty and national sovereignty, the case is the same. National sovereignty means that every nation should stand on its own feet and others should not exercise a mandate over it. Individual sovereignty means that a person has no spontaneous right to rule and

dominate others. It means the individual and national right of sovereignty is subservient to the sovereignty of God. In essence, sovereignty belongs to God, and by extension, anyone who has been given authority to rule has the right to rule to the extent that God has granted him. In the absence of God's permission, no person has .the right to dominate another person

Session ۱۹: Distinctive Feature of Islam in the Realm of Politics and Government

Three views on determining the special function of government

Once we say that government is meant to implement law in society, or in other words, the two main pillars of government are legislation and implementation, law must have some criteria and authority on the basis of which rules and regulations are enacted. As such, this fundamental question is raised in political philosophy—what is the aim of forming a government? It was briefly touched upon in previous discussions. In this session, we shall examine

it elaborately. Initially, we shall mention the three views on the purpose of forming a government so as to identify the logical connection between government and law. .Then, we shall delve into the subject

۱. Individuals such as Thomas Hobbes, from among political philosophers after the Renaissance, are of the opinion that the objective and function of government is only to establish peace and order in society. In a broader sense, the objective is to establish domestic and external security. That is, the main duty of the government is to implement rules and regulations that prevent chaos and disorder in society and have a defense force against external threats so as to ensure the country's survival .and territorial integrity

۲. Some have said that apart from maintaining and guaranteeing security, law and government need to implement justice in society. A profound debate on the relationship between law, justice and freedom, especially among the political .sociologists, has started and many books have been written in this regard

Once we accept that in addition to the maintenance of security, the duty of the state is to implement justice, the question arises: What does justice mean by itself? Many interpretations on the nature of justice and its manifestations have been offered by Muslim and non-Muslim scholars. Among them, the comprehensive and generally agreed upon concept of justice is that everyone must be given his or her rights. However, they differ on definition and scope of "rights". Since the term "rights" is included in the definition

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of justice, we have no option but to embark on another discussion, and that is the .relationship between freedom, law, rights, and justice

For example, what is the relationship between rights and justice? Finally, the discussion concludes that the right of every person is that his or her natural interests and welfare should be ensured, and the just law is that which ensures the rights of .individuals, i.e. what their natural needs demand, under the aegis of social life

Now, this question is raised on the issue of rights: Who are those who have rights in social life? Do all the human beings have similar rights in social life? Or, who are those who have the right to share social benefits? In other words, some handicapped people cannot render any service to society. They are confined to hospitals and sanatoriums and cannot play any role in social life nor contribute anything to society. Do they have any rights? If rights emanate from services rendered by members of .society, then such individuals have no right at all

Of course, possibly some handicapped people can contribute to society intellectually, but do the handicapped, who since birth, have been deprived of all physical and mental capabilities have any rights? Another case is that of a person who, while strong, offered valuable services to society and later became physically disabled and could not render any form of service to society anymore. Does he have any right in ?society anymore

According to some sociological tendencies, such

individuals do not have any right in society and the state does not have any duty toward them. In the Marxist regime ruling the ex-Soviet Union, such individuals who made no contribution to society were eliminated under a certain pretext. Such tendencies also exist in other societies. Are rights linked with services individuals ?render to society

Does the handicapped have any rights for being a human being, born and living among other human beings? Unfortunately, those who say that right is commensurate with the service rendered to society do not consider any rights for such individuals, saying that if out of compassion and humanitarian feeling, some people want to serve this stratum of society and build sanatoriums for them, they !may do so. Yet, no one shall be responsible for their death

۳. The third viewpoint on the purpose of forming a government and state is the Islamic viewpoint which emphasizes—apart from maintaining security, implementing .justice and providing material welfare—the satisfying of spiritual and religious needs

Difference between the special function of the Islamic government and that of other governments

In Islam, maintenance of security, defense against foreign enemies, establishment of justice, and ensuring the rights of those rendering services to society are considered a part of government obligations. In addition, benevolence [ihsan], i.e. service to the indigent and those who lack any potential to offer any service to society, is also a duty ,of the government. As God says in the Qur'an

(إِنَّ اللّهَ يَأْمُرُ بِالْعَدْلِ وَالإِحْسَانِ...)

"Indeed Allah enjoins justice and kindness..."(۱)

The duty of Muslims is not only to observe justice. Beyond that, they

.Surah an-Nahl ۱۶:۹۰ -۱

should also be benevolent. On account of their being human, the indigent, the disabled, and the handicapped, especially those born handicapped, have their legitimate rights in human society, and the Islamic state has to provide for their .primary needs

The other difference between Islam and other schools of thought is that Islam does not confine itself to material and physical needs but considers psychological, spiritual and otherworldly needs also. The burden of responsibility on the Islamic state is far heavier than that of liberal states. Logically, apart from providing the needs of individuals offering services to society, liberal states have no other responsibility. However, the Islamic state, in addition to satisfying the needs of those rendering .service in the society, should help the handicapped

As such, laws must be enacted and implemented in the Islamic state to ensure the provision of individual and social, material and spiritual, worldly and otherworldly needs of human beings, and not only provide the material needs for the active .members of society

The next question raised is: What is the proof of correctness of the Islamic theory and how can we know that the other theories are not correct? In a bid to reply to this question, there is a need to go a step backward and pose this question: What ?essentially is the reason behind the formation of human society

Islam's view on the essence of human society

Before examining the reason behind the formation of human society, let me ask: Is man, like the termite or the bee, inherently a social being? Is social

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living something that man has selected and chosen by himself? There are many views but I shall touch upon two basic views in this regard. One is that social life has an optional humane objective. The second view is that social life has no purpose. For

instance, it cannot be said why the bee has a social life and what its purpose in social .life is

Obviously, the bee has a natural and instinctive purpose and that is to produce honey and live. There is no other purpose of the bee's social life. Of course, God, the Exalted, has a purpose in creating these creatures, one of which is to serve mankind. However, setting aside the creational and divine aspect, the bee is not pursuing a volitional objective in its social life. Is the social life of man also a natural process which has spontaneously arisen without having any purpose? Or, does it have a ?purpose which necessitates relations which, in turn, require orders

From the religious point of view, the purpose of social life is human progress under the blessings of social living and getting closer to their objective. Then, you may ask: What is the purpose behind the creation of man? According to the divine perspective, .the ultimate goal of man is nearness to God and this is the zenith of human perfection

If we accept that the purpose behind creation is perfection attained under the auspices of nearness to God, then social life is a means for man

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to achieve this goal in the best way possible. In the absence of social life, human beings cannot acquire necessary knowledge and perform necessary acts of worship, .nor attain ultimate perfection

Therefore, it is under the blessings of collective life that teaching and learning are done; human beings identify better ways to live; conditions to continue on the way are provided; and as a result, human perfection becomes attainable. Once we accept these preliminary proofs, we can conclude that the objective of social living is to pave the way for human advancement and perfection not only in the material dimension .but in all dimensions of man's existence

Man is a multi-dimensional being who has diverse facets and dimensions. Therefore, the perfection of all dimensions constitutes true perfection; not only material

perfection, industrial advancement, social progress, and economic growth. So, the best law is that which paves the way for the growth of man in all these dimensions .and gives priority to the ultimate goal which is nearness to God

Necessary qualities of the legislator

The Islamic government has to implement laws that encompass all dimensions of man's existence and ensure his interests in all dimensions, because such laws need perfect awareness of all aspects of man's existence. Depending on his expertise, each of the human beings that we know is aware of only some aspects of his existence. Earlier the philosophers made such claims, but nowadays, the ignorance of man has become manifest to him. In some cases, economic progress may conflict with spiritual or religious

p: ۳۲۹

.advancement

Of course, we believe that the great divine system guarantees all human interests. But it is possible that in a certain society at a given time or place, a sort of conflict among the interests of people might emerge. As such, these interests must be categorized so that in case of conflict, the concerned authorities know what needs priority. Thus, it is the duty of the legislator also to identify the priorities, and it is here .that the impotence of man to discern such a law manifests itself

Apart from having a complete knowledge of all dimensions of man's existence, the more important quality of the legislator is that he should empty himself of all personal and group desires, and give priority to the interests of society over individual, group or factional interests. Nobody can do this. In case of conflict between his and others' interests, and between his group's interests and that of others', any great man would overlook his personal and group's interests and voluntarily give priority to the interests of society over his personal interests. To find such persons from among members of society is problematic, and perhaps impossible. So, the legislator should .also have the capability of giving preference to the interests of society over his own

It is here that the superiority of divine law over all man-made laws becomes clear because, firstly, God, the Exalted, is the One fully aware of all the interests of human beings. Secondly, God does not acquire any

p: ۳۳۰

benefit or loss from the actions of human beings for His interest to conflict with that of others. In Islam, however, we say that assuming that all the interests of human beings are ensured in their mundane life and social relations, still that society is not desirable and ideal because the ultimate and loftier perfection is under the auspices of nearness to God. This nearness to God can materialize only through worship, devotion, servitude, and obedience to God.

Physical wellbeing, peace and order of society, defense against enemies, justice, and social rights of individuals are a prelude to man's communication with God. The essence of humanity lies in this communication with God, and unless it is established, true humanity cannot materialize. Proximity to God is not a mere slogan. Rather, it is the true and spiritual communion of people with God. Human beings pass through different stages of life, traverse and ascend until they attain this station. Common people cannot discern that such a station exists for man, or that they can attain such a spiritual and celestial station.

Now, as God is not in need of our worship, why did He create man for worship and say,

"I did not create the jinn and humans except that they may worship Me"?(۱)

The answer is that the ultimate perfection of man cannot be achieved except through the worship of God. So, one should recognize God and obey Him so that man can tread the path toward true perfection. It is through attention

p: ۳۳۱

۱- ۵۱:۵۶ Surah adh-Dhariyat.

to these preliminaries that we say that the law desirable is that which, apart from ensuring the material needs of the active members of society, also guarantees the needs of those who make no contribution to society, such as the impotent, disabled and handicapped for, they also have rights. The Islamic state has to provide their needs for they are also servants of God and born in society. It is for this reason that in :addition to justice, the Qur'an mentions kindness

(إِنَّ اللّهَ يَأْمُرُ بِالْعَدْلِ وَالإِحْسَانِ)

(Indeed Allah enjoins justice and kindness."(١"

This injunction of God is not only a moral admonition. Rather, it is an obligatory command which must be obeyed. Thus, just as the observance of justice in society is obligatory, so is the observance of kindness because rights are not only established by rendering service. Rather, there is a series of rights that God has considered for every person. Even the one who is in the worst condition, deprived of eyes, ears and mobility has rights for the mere fact that he is alive. And the Islamic state must .guarantee these rights

So, we should not think that the sole responsibility of the state is the thing mentioned by Hobbes, Jean-Jacques Rousseau and other Western thinkers for, either they have not paid attention to the sublime stations of man, or they have imagined man to be wolf-like or an insect like the bee and termite. According to Islam, however, man is far ahead of such animals though

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.Surah an-Nahl ١۶:٩٠ -١

.they also live collectively

Thus, law has to consider all the needs of man along his pursuit of ultimate perfection. Now, if law were to consider all interests, could it give man every kind of freedom? Can man move along any path and achieve this objective? Can those who have not

recognized God, denied Him, stood up against Him and His worshippers, attain human perfection? Is not the worship of the One God the way to attain human perfection? If the duty of the Islamic state is to pave the ground for human perfection in all dimensions, the spiritual and religious dimension in particular, then the desires should, in a sense, be regulated, restrained and controlled, and a framework for them .determined which does not conflict with sublime human interests

Difference between Islamic laws and liberal laws

The difference between Islamic laws and man-made laws —especially laws of the liberal societies that consider right for the people in lieu of the services they render in :the society— can be examined through the following perspectives

۱. Liberal societies, do not consider any rights of individuals who, due to physical disabilities or social deprivations, cannot contribute to society. Islam, however, gives rights to them as well. In order to guarantee these rights, the desires of others need to be restrained and a portion of public wealth allocated for these individuals, which is .not liked by other people. So, their dislike should be restrained

۲. In social life, rights are given to society, which prevail in case of conflict

with rights of individuals. The question on which rights should prevail in case of conflict is based on individual-oriented and society-oriented tendencies existing in Western societies today. Of course, the dominant and ruling tendency in the Western world is individualism; however, socialistic tendencies, more or less, exist. In Western societies today, socialist and social democratic governments are gaining momentum .compared to other forms of government

In contrast to the individualistic tendency in liberal societies, Islam gives preference to the rights of society. Liberal governments are willing to burn or throw millions of tons of foodstuff into the sea in order to prevent the market price from breaking down and the capitalists from incurring loss. They are willing to let millions of people die of hunger only to protect their material interests. Yet, Islam can never permit such

a thing. The desire of such elements should be restricted according to Islam. Economic freedom must not be ensured in any manner or any way, it should be limited. Just as the interests of the deprived stratum of society and the handicapped restrict the interests of society, similarly individual desires must be limited for the .sake of ensuring the general interests of society

In Islamic society, there are concerns which are basically related to the individual, .۳ but since it leaves an imprint on society, it is reckoned as part of social concerns. For example, if a person commits a sin in isolation at home while no one else is informed or a

witness, obviously his sin is personal in nature, and the laws that restrict this kind of action are "moral laws" (without considering whether the use of the term "moral" in .(this context is correct or not

That is, the jurisdiction of the state is related to society and not to the individual. But if the individual action is done in such a manner that it more or less affects others, at least encourages others to commit such a sin, it acquires a social dimension. If a person commits a sin in the street or in front of other members of the family, its hideousness will diminish and people will be encouraged and inclined to commit it, his action will no more be personal in nature. Do we have no right to interfere because it will only harm him? According to Islam showing of perversion is a social act. If a person commits a sin in front of others, it becomes a legal crime (in contrast to moral turpitude), and the state may interfere. The law that prevents such a sin is an .administrative law backed by the state's police force

Damaging material interests of society is a crime. Morally damaging acts are also .۴ crimes. In every society, an attack on the integrity and honor of others, even if it is not a physical attack (libel, insult and mockery) is considered a crime and the state has the right to pursue the offender and penalize him. In such cases, the executive

guarantee is law. In Islamic society, insult to religious sanctity is the most serious violation of the rights of Muslims. In Islamic society there is nothing more valuable than religious sanctity. Muslims are willing to sacrifice everything they have for its .sake

It is on this basis that the decree against apostasy [irtidad] and insult to religious sanctity can be justified and understood. This is why anyone who insults the Holy Prophet (s) and other religious sanctities is condemned to death by Islam. That is because he has committed the greatest of crimes. There is nothing more sacred than these sanctities for Muslim people and insult to these sanctities is the worst of crimes. .This is also a fundamental difference between Islamic and liberal perspectives

Offence against Islamic sanctities is not an offence against an individual for it to require a private complainant. Anyone who insults the Islamic sanctities in newspapers and speeches is condemned according to Islamic law. It is not a personal and individual issue but rather criminal and penal. No one can pardon this crime .because it is a right that belongs to all Muslims, nay it is a right related to God

These are issues which Muslim scholars, especially the students, should pay attention to and not imagine that the political and legal issues of Islam follow the limited and monolithic Western framework that only pays attention to the material, mundane and individual concerns in this world. According to Islam, the rights of society take precedence over

p: ۳۳۶

.individual rights

In view of what has been discussed, we can assess the distinctive features of Islamic .law and the reason behind its superiority over other laws

We can understand why individual desires are more limited in Islamic society than in secular and liberal societies. It is because in those societies the only thing that limits individual desires are individual and material interests. But in Islamic society spiritual

and otherworldly interests require particular limitations. This is something which the nature of the Islamic government anchored in religious belief demands, and we shall .defend these beliefs with utmost clarity and courage

Session ۲۰: A New Perspective on the Station of Law and Government

An organic perspective on society

In previous sessions, the main subjects of legislation in Islamic political establishment and government were discussed. In order to know the station of political and government organs in society according to Islam, we shall mention some similarities .and analogies, to better comprehend the essence of the subject

Since time immemorial, scholars have likened society to the human body, saying: Just as the human body is composed of various members and organs and enormous cells, society consists of various entities and institutions with numerous parts. Each part is made up of individuals each of which is equivalent to a cell of the human body. Of .course, this analogy is sometimes exaggerated

Usually, in theoretical and practical works and activities, it is difficult to identify the correct and moderate extent of this above analogy. Some say: Just as the human body is composed of diverse organs which are different in their

natural constitution and can perform only a specific function, so are members of society different from one another in accordance with their essence of creation. Every member of society has been created for a specific function and has to perform only .that function and not go beyond that

For instance, we know that in the beginning all cells of the body come into being from a single cell and it is through the mutation of that cell that different types of constructive cells come into being. Some cells have delicate and tender structures that compose organs such as the eye and brain. Some have strong structures that compose the bones. The cells of bones can never be used in lieu of cells of the eye.

Neither can the function and duty of the eye be performed by the bone. They have come from the same single cell but after mutation, the mutated cells become so varied that each of them can perform only the function determined for it, and they .cannot be interchanged

They say that essentially, members of society are created diversely for various tasks. One member cannot perform another's function. Since time immemorial, thinkers and philosophers have believed that the races and classes of society have specific frontiers, and each of them has been created for a certain work—for example, the black race has been created for heavy physical work and the white or yellow race for mental work. They imagined that the difference of color and race makes

p: ٣٣٨

each person perform a specific function. This analogy is an exaggeration, which .neither science nor philosophy and religion confirm or believe it anymore

Islamic approach on organic perspective of society

From the Islamic viewpoint, all people in terms of their physical and psychological constitution can render diverse works in society. Of course, talents and capabilities are divergent and not of the same level. But it is not true that a boundary has been drawn between two races which they can not go beyond, and that the black can not .perform the functions of the white and vice versa

According to Islam, there are similarities between society and the human body that can be used in explaining the conditions of groups and individuals, but to compare society with body organs with diverse natural compositions and conclude that members of society are naturally and structurally different from one another is not correct. Among the new sociologists there are also those who say that society is also an organism and the different strata and echelons of society resemble the organs of a body, and its natural relationship, unites individuals. Seemingly, this is also an extreme .view

Is the relationship among members of a society exactly like the relationship of cells

that compose an organ in a body? Is this analogy between the cells and members of ?society acceptable

To prove that society has such a relationship is extremely onerous. However, there are similarities between society and individuals that can be used to know the social ,standings of individuals. In his famous poem

p: ۳۳۹

:Sa'di has described these similarities in this manner

بنی آدم اعضای یکدیگرند که در آفرینش ز یک گوهرند

چو عضوی به درد آورد روزگار دگر عضوها را نماند قرار

.The Children of Adam who are of one essence in creation are parts of one another

.When one part feels pain, the other parts do not remain at ease

Undoubtedly, this similarity establishes the need for cooperation among members of society and awakens man's emotions to strengthen his relationship with other individuals, sympathize and cooperate with them, and not deprive them of the resources he may acquire. This reasonable similarity that can prove very useful and is rooted in traditions reported from the Noble Messenger (s) and Imam as-Sadiq ('a). :The tradition of Imam as-Sadiq ('a) is as follows

أَلْمُؤْمِنُونَ فی تَبارِّهِمْ وَ تَراحُمِهِمْ وَ تَعاطُفِهِمْ كَمِثْلِ الْجَسَدِ إِذَا اشْتَكى تَداعى لَهُ سَائِرُهُ بِالسَّهَرِ وَالْحُمّى.

In performing acts of kindness, sympathy and benevolence, the faithful are like a" single body. When one part feels pain, the other parts remain restless without sleep (day and night."(1)

As you see, His Holiness compares the Islamic society and the faithful to a body and .Sa'di has generalized it and likened the human to a body

An analogy is meant to highlight that aspect in one being whose existence in the other

is not well known. Therefore, not all attributes and qualities of one thing [mushabbahun bih] should be passed to the thing likened [mushabbah]. For example, if we describe a brave man as a lion, it means that we want to highlight his

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.Mustadrak al-Wasa'il, vol. ۱۲, p. ۴۲۴ -۱

!quality of bravery. It does not imply that he also has a mane, or walks on all fours

Ways of comparing society to the human body

Society and an individual can be compared to the human body as possessing diverse yet well-coordinated systems and organs that are contributory in the subsistence and growth of man. Society also has various institutions that generally facilitate its movement. For example, there is a system in the body called circulatory system which facilitates the circulation of blood in the body and whose center is the heart. The heart pumps the blood which is produced through the activity and coordination of the spleen, stomach and liver. In the end, through the veins, arteries and finally aorta, the .blood reaches the cells and makes their subsistence possible

The circulatory system has organs such as the heart, veins and arteries, which transmit the blood throughout the body. The blood that flows in the veins must have oxygen so as to ensure the subsistence of cells. As such, the lungs and other organs of the respiratory system provide oxygen to the body which, together with the blood, is distributed throughout the body. Similarly, the food nutrients produced by the digestive system are transferred to the blood. So, by the coordination and connection of the three systems—circulatory, respiratory and digestive—it becomes possible for .us to survive

Apart from the abovementioned systems, there are also other systems that guide, organize and control the activities and processes of the digestive system. For example, in the body there is a set of

glands with specific functions and activities; a set of nerves that conduct their activities under the command of the mind and stimulate organs such as the stomach .and others which function with the help of the nervous system

As you can see, the steadfastness, consistency and subsistence of the body depends on the activity of various systems which engage in their own activities through a particular order and coherence and in full coordination with one another. We can compare society's institutions and organs to the body's systems and organs and create an analogy. For instance, the process of production of food and its distribution to the whole body is similar to the economic institutions of society. They produce the materials needed by society and then distribute them by means of distributing agents. This is exactly like the blood that is produced in the body and then sent to the organs .by means of the heart and blood-vessels

If there is malfunctioning in the circulatory system, due to the obstruction in some veins and the blood cannot circulate easily, the body will get sick. Sometimes, a part, which is deprived of food, experiences decay and is eliminated. In so many cases, it must be removed from the body, and in so many cases also, malfunctioning of blood circulation paralyzes the body. So, in order to maintain the wellbeing and life of the body, the blood must flow in the veins easily and without difficulty. Similarly, in society capital and needed items should

.always be available

If the capital is confined and forestalled somewhere and its flow obstructed, the economic system—which includes the production and distribution of agricultural and industrial products and administrative services—malfunctions in such a manner that society's needed items do not easily flow in society, making it ill, lethargic or even .bankrupt. This analogy is correct and reasonably acceptable

Likewise, the government apparatus can also be likened to the body's nervous system which is actually the body's commander and comprised of two parts, viz.

sensory and motor. Like the body, society is in need of the brain to take decisions and give commands as well as workers to execute the command within the organs of society and stir them to action. For this reason, government apparatus consists of two vital branches: (۱) the legislative branch which enacts/makes rules after identifying society's interests and means of providing them, and (۲) the executive branch which implements the rules and regulations.

Our sensory nerves and organs pave the ground for cognition while our motor nerves pave the ground for execution in our body. The preliminaries of the senses are provided by the sensory nerves while the brain is the tool for thinking and judgment. Of course, the soul of man has the power of thought, but its tool is the brain.

By means of the brain, the mental operation is conducted and commands executed by the motor nerves. One is the mental force of the soul which engages in acquiring knowledge and information while

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the motor nerves constitute the soul's activating force. This system is similar to the government apparatus, and its status and role in society can be assessed.

Elucidating the station of government in society through the organic perspective

Once we look at our body organs and their coordinated activities we realize clearly that we have no hand in making those organs and in organizing their activities. Scientifically speaking, nature has created them and stimulates them to move and function. But in religious parlance, we say that it is God who has created those organs with specific features, capabilities, talents, and potentials. He is capable of bringing about a body with such magnificence, complexity and elegance. And higher than that, the nature of our soul is much more complex, magnificent and far-reaching than that of the body.

Since God has placed this body at our disposal, we should know the proper way of using it. We should use our body in such a manner that we enjoy a long life replete with good health and happiness, and not injure it. If we eat or drink unwholesome

foods, and not abstain from drinking liquor and using narcotic drugs, can we have a healthy body and a long prosperous life? Obviously, the answer is negative. That is, we have to limit freedom in actions which we like and not eat just anything we desire. We have to pay attention also to the type, quality and quantity of food we eat, determine the time of eating, follow health prescriptions for, if we do not our lives will

p: ۳۴۴

.be seriously endangered

Regarding what we pointed out on the systematic system of the body organ and the need to observe the health prescriptions, a doctor or medical expert tells us, "Do not eat such-and-such and do not consume alcohol and narcotic drugs because these will cause your nervous system to malfunction and destroy your kidneys and liver," how should we react to him? Shall we thank him for guiding us and showing us the way to sound health, or shall we complain to him for minding our business? The one who places the health prescriptions at our disposal is rendering a very valuable service and .showing us the way to sound health and prosperity. So, we need to be grateful

The case is similar in connection with society. If someone says, "I cannot understand the meaning of life at all and I do not want to live, or it makes no difference to me whether I am alive or not!" he will certainly be treated as unintelligent. If he did not want to observe the instructions, according to the law of cause and effect his actions will end up in either ailment or death. If a person has no aim in life, he should consign .his fate to the turn of events

He should eat whatever he likes and do whatever he wants, and thus, whatever is supposed to happen will happen, and he will get sick and die. But anyone who has an aim in life and wants to

p: ۳۴۵

live long, enjoy his health to the fullest, so as to acquire spiritual growth and perfection cannot afford to be indifferent to medical instructions. That is, he will have

.to limit his desires in accordance with the instructions dictated by medical experts

If we assume that society is like an aimless person for whom life and death are meaningless, who wants neither survival nor autonomy, nobility nor honor, identity nor integrity, and believes in neither spirituality nor the hereafter, such a society can certainly do whatever it likes, has absolute freedom and does not need to observe .any rules

No purposeful work is possible without rules, and to achieve an aim is impossible with absolute freedom. If there is any aim in an activity, there will also be limits. The preliminaries of every activity must be done according to specific laws and orders, .even if the aim is death

If a society has any aim, it should observe rules. That is, it must restrict its freedom and restrain its desires. If it does whatever it likes, it will never achieve its aim. If it has no aim, it will not be in need of any regulations, and such a society is like the very aimless individual who will be condemned to death after a short while. Therefore, if a society wants to survive, grow, advance and possess honor and eternal bliss, it must .have precise rules and regulations

The question here is this: How should these rules be enacted? Who should enact

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them? Are these rules a set of real things that must be discovered? Or, are they merely a set of conventions and traditions that must be enacted and credited? This .question is very important in the philosophy of government

In nature we have a series of real rules which have been discovered by scholars. That is, a certain microbe causes a certain disease is based upon a real relationship that exists between a real cause and effect which scientists have discovered and arranged in the form of a law and placed it at the disposal of all mankind. In a bid to remain immune from the disease, you have to avoid the microbe. In case the disease .becomes rampant, people should be vaccinated to become immune to that disease

Similarly, if society wants to survive it has to observe certain rules. Do those rules really exist in nature which must be discovered by certain people? Or, are they conventional, extrinsic and imaginary things that can be changed in order to win the .approval of people? This question is fundamental and vital

Real benefit and harm as the bedrock of law

Is there really a relationship between security and the prevention of stealing? That is, if we want to have security, should there really be no stealing? Or, is there a conventional relationship between the two and is it possible to have security and stealing take place at the same time? Does killing have a real relationship with insecurity? That is, if a person has the right to kill anybody he

likes, will it really lead to insecurity or, is it a conventional relationship? Does faith really cause tranquility of the heart or, is this also a conventional thing? Will sexual freedom really cause the breakdown of families or, is it also a conventional thing? One day, it is said in a society that sexual relationship is free because the people there .accept it

Another day, it is said there that it is restricted because some or a majority of people do not approve it. So, is the status of this law only a matter of preference and must the law be enacted according to their preference? Or, is it based upon a real relationship? That is, if there is sexual freedom, physical and psychological ailments will become rampant. The family unit will break down. Psychological diseases in men and women will become rampant. Undisciplined, unwanted, corrupt, and delinquent .children will be born

Some believe that social contracts are based on real benefits and harm. It is not true that they are based on public preference. In case the consumption of alcohol is unchecked, nervous and heart diseases will become widespread. If smoking is widely practiced, related sicknesses will also increase. The same is true in the case of social problems. If the relationship between man and woman is free, unconditional and

unrestricted, it will have dire consequences for society, ample examples of which can .be witnessed in Western countries

So, in enacting the law we should pay attention to its real

p: ۳۴۸

outcome and impact. It is not that we have to act upon the demand of people and see whether the majority want sexual freedom or not, or whether the majority vote for the legalization of narcotic drugs or not. Should the law be enacted in this manner? Or, should we discover what harms the narcotic drugs really bring to man even though a majority of people agree on their consumption? In your opinion, which way is correct? Should the social laws be based on the majority vote or, should they have a real and true foundation? That is, is social benefit and harm real and true, or is it merely ?conventional and subjective thinking

Since the time of Hume in the Western world, epistemology says that dos and don'ts and moral concepts do not have external reality and are devoid of rationality and argument. "Good" and "bad" are preferences of people. If a person likes pink, he cannot be questioned why he likes it because one person likes a color while another .person likes another. Social issues are not as subjective as choice of colors

There is a real relationship between the actions of people and their impact upon their individual, social, material and spiritual life, and in reality, they are cause and effect. Actions of people in the individual and social context bring about felicity or perdition. As such, it must be seen which action causes felicity so as to be permitted, and which action causes perdition and misery so

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as to be prohibited and law be enacted accordingly. Then, this question will be posed: .Who knows best the real benefit and harm? We Muslims believe that God knows best

In the dimension of legislation, therefore, the view of Islam is that there is a cause-and-effect relationship known as "benefit" and "harm" between the actions of people

in the individual and social context and their outcome, as prosperity or wretchedness in this world and the hereafter. This benefit and harm must be identified and law .enacted accordingly, and not according to the whims of the majority of people

(Session ۲۱: Islam and Democracy (Part ۱

Law enforcers' need for the permission of God

Some may ask, "Once we accept law, identify the channels and grounds for its implementation and are certain that in a certain case, for instance, a given law must be implemented, what is the difference between Zayd and 'Amru being the law enforcer? We accept that divine law must be implemented in society, but why should ?God authorize the law enforcer

If the above objection is expressed in the area of jurisprudence, it must be addressed through a juristic method and approach. But if in public, certain people express skepticism without considering the juristic foundations and research methodology in the subjects of Islamic jurisprudence and want to receive a reply which is for the average man, understandable and discernible by common people, we can reply to such people by citing instances from our social life. For example, in family life and .environment, there are rules for family members

For instance, one

p: ۳۵۰

should not encroach upon the property of others. This rule should be observed even by children in relation to their toys and stationery. If one member of the family encroaches upon the property of another, he or she shall be reproached. Or, in relation to two families or neighbors, if one of your neighbors enters your house without your permission and uses some of your belongings, even if it does not bring about any harm to you, you will complain against his action. Even if he serves you, you .still deem it your right to complain against him

As another example, let us assume that a law or circular is to be implemented in an

office, but the decree of the head or manager of the unit supposed to implement it is not yet issued. If a person comes, says he is a trustworthy and good man who knows the law well, takes a seat in the office, and engages in implementing the law, no one will allow him to do so even if he is the same person whose letter of appointment is on its way. This is because all men of wisdom have accepted the principle that as long as a competent authority does not authorize a person, he has no right to exercise .legitimate or legal authority

We can easily understand why in a society whose people have acknowledged His Lordship, a person who wants to rule without the permission of their Lord, is exactly like the one

who wants to head a certain office without obtaining the permission of a competent authority. Even if his work is proper and good, he shall be reproached and even prosecuted. The people are also not obliged to obey him. According to Islam, the people are subjects and creatures of God and without the permission of their Master no one is authorized to interfere in their affairs, so only the person authorized by God .has to implement His law

It is for this reason that in accordance with the knowledge he acquired from Islam and Islamic sources, the eminent Imam (q), the founder and architect of this Revolution and political system, would always explicitly write: "By virtue of the divine guardianship [wilayat-e ilahi] I have, I do hereby designate you to this position." In one case, he even further stipulated: "Do not listen to those who are against the path of Islam, who regard themselves "intellectuals" and want to reject the wilayah al-faqih. If there were no such faqih; if there were no wilayah al-faqih, there would be taghut. If it were not the command of God; if the president were not designated by the faqih, then he is not legitimate, it means that he is taghut. To obey him is to obey the taghut."(١) This is not a personal opinion but rather something deduced from the noble verses of the Qur'an and ahadith, and at any rate, it is the opinion of the person .who has founded this Islamic system

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.Ṣahifeh-ye Nur, vol. ۹, p. ۲۵۱ -۱

the law enforcer, even if he implements all the laws according to the Islamic standards must be authorized by God. This authority is sometimes specific in form just as in the case of the Messenger of Allah (s), the infallible Imams (‘a), those who have been personally designated by the Holy Prophet (s), those who were appointed by the Commander of the Faithful (‘a) during his caliphate as governors and rulers of the Islamic territories, and the designated special deputies of the Imam of the Time (may Allah, the Exalted, expedite his glorious advent) during the period of minor .[occultation [ghaybah as-sughra

In these cases, through specific designation and personal authorization, certain individuals were commissioned to declare and implement divine decrees in the realm of their responsibility. Yet, at other times, the permission or designation is general. That is, during the period of occultation and even at the time of the Imams (‘a) from whom the helm of government was taken away, through general designation and authorization, competent individuals were introduced to implement the law of God. For example, Imam as-Sadiq (‘a) authorized the Shi‘ah fuqaha to implement divine commandments and engage in administration in regions where people had no access to the Imam. This fact is necessarily established during the period of occultation because when the Imam of the given time was under surveillance or practicing dissimulation [taqiyyah],(۱) he would generally designate individuals to address administrative affairs of people on his behalf. Is this practice not then necessary for

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Taqiyyah: prudential dissimulation of one’s true beliefs under conditions of acute -۱ danger to one’s life, property, or honor, a practice based on Qur’an, ۳:۲۸. As its observance depends on certain terms and conditions, it may be obligatory [wajib],

recommended [mustahabb], abominable [makruh], or forbidden [haram]. For a discussion of taqiyyah, see Sayyid Saeed Akhtar Rizvi, Taqiyyah (Dar es Salaam: Bilal Muslim Mission of Tanzania, ١٩٩٢), http://www.al-islam.org/taqiyyah; [١۴] Al-Taqiyya/Dissimulation, http://www.al-islam.org/encyclopedia/chapter۶b.html; [١۵] and 'Allamah Tabataba'i, Shi'ite Islam (Albany, N.Y., ١٩٧۵), pp. ٢٢٣-٢٢۵, http://www.al-islam.org/anthology [١۶]. [Trans.]

the period of occultation when the people have no access to the Imam ('a) for centuries?

I do not intend to expound religious proofs and juristic basis for this subject. I only want to justify why in Islam the law enforcer must be designated by God and how God authorizes the law enforcer. We have stated that this authorization is either specific as in the case of certain personalities, or general as in the case of the duly competent fuqaha.

Regarding this theory, whether in the dimension of legislation or implementation of law, objections were expressed, the most important of which was that it is allegedly repugnant to the essence of human freedom. We refuted this argument in previous discussions. Another objection was in relation to implementation as the wilayah al-faqih system was considered inconsistent with democracy. Democracy is a system which has been accepted by all sensible people throughout the world. In practice, even the socialist countries failed to challenge democracy and had no option but to accept it. So, mankind today, at least in our age, has no option but to embrace democracy. The Islamic government project which is known as the government of wilayah al-faqih is, however, considered inconsistent with democracy.

Meaning of democracy and its functional shifts

At the outset, I deem it necessary to explain the term "democracy". The literal translation of "democracy" is "government of the people" or "populism". It means that the people themselves are involved in administration, legislation, implementation of law and the political affairs of society, and

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no one else is involved in enacting and implementing law. This is the meaning of the .”word “democracy

Democracy throughout history has been expressed in many forms. In the beginning, as far as history indicates, approximately five centuries before the birth of the Holy Messiah (‘a), in Athens, the capital of Greece, this theory was advanced and put into action for sometime in such a manner that all people, with the exception of slaves and minors below the age of ۲۰ used to be directly involved in their sociopolitical affairs. Of course, it was not compulsory and the people were free to engage or not in such an .important activity

At that time, the people used to live in big cities and express their opinion about the issues and concerns of their city. Debates and discussions used to take place on the basis of which, decisions would be taken and put into practice. This form of government in which no specific person or group was in charge of the administration but the people themselves was called democracy or government of the people. This form of democracy was implemented for sometime in Athens, the capital of Greece. Apart from the fact that philosophers and thinkers strongly campaigned against this method, describing it disparagingly and branding it as “the government of the .ignorant”, it also faced numerous problems in practice. As such, it did not last long

Such a method is impractical for big countries and populous cities because it is impossible for all

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the people to constantly get involved in social affairs. This method may temporarily be implemented in small cities, but in cities with a population of millions, all the people cannot decide the daily affairs of their city? This method was rejected until after the Renaissance another form of democracy was presented in which the people would elect their own representatives to take charge of the administrative affairs and the latter would rule on behalf of the former because direct involvement of the people

was unfeasible. Since then, this theory earned many advocates and was gradually implemented in some countries until finally, during the ۱۹th century this method of governance was accepted by almost all countries of Europe and other continents, and .governments were established on this basis

In our country also, this form of democracy is implemented. Practically, in all government organs and institutions the people get involved by participating in various elections and selecting of their own representatives, such as participation in presidential elections and elections of the Islamic Consultative Assembly, and selection of deputies by people to enact and approve bills, and also local council elections and the rest provided for in the Constitution. So, according to the second form of democracy which has distinct features in every political system, the people get involved in their sociopolitical affairs by means of their vote and selection of the .legislators and implementers

Meaning of democracy today

Nowadays, democracy has earned a more specific meaning and a regime in which religion has no role

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to play is regarded as "democrat". Of course, this form of democracy does not negate religion but hinders it from getting involved in sociopolitical affairs. It does not allow the law enforcers, while implementing the law, to talk about religion, and no executive order or circular to be issued on the basis of religious decrees and values. In reality, this form of democracy is anchored in the secular system which totally separates .religion from sociopolitical issues

Of course, sometimes, the legislators and executives themselves may be religious individuals, go to church every week and make a vow to the church. They may possibly be members of religious groups and engage in specifically religious activities in a private national or local capacity beyond the official government jurisdiction. But, in government and administrative affairs, legislation or judiciary, in managing the

.country or implementing laws, nowhere must religion have any role or function

It can be heard in a country like France—which is known as the bastion of freedom and democracy—that any girl wearing the Islamic modest dress [hijab] is proscribed from entering a school or university, because alienating religion is regarded as one of .the features of democracy

They say "Our system is secular and no symbol of religion should be seen in public institutions. Wearing a headscarf is a sign professing a religion and it must be disallowed in government institutions such as public schools. If a school is affiliated to the church or is private, there is no problem even if

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everybody wears a headscarf. However, in public schools and universities under the supervision of the government which give official diplomas, as well as in public offices and ministries, no symbol of religion must be seen." This is a new interpretation of religion on the basis of which religious symbols and values are deemed in conflict with .democracy

According to the traditional interpretation and second form of democracy which means government of the people, if certain people are religious and want to practice their religious rites in offices, they should not be opposed because this practice is consistent with the desire of the people and based on the law enacted and implemented by the people themselves. Democracy demands that wherever they are, including schools, offices and ministries, the people must be free in their manner .of dressing

If the absolute majority of people are supporters of a religion and based on their religious inclination, want to choose a certain garment or want to perform their religious rituals, no one should hinder them. Once a law is passed by the will and desire of the people which makes performance of prayer in offices, ministries and universities mandatory, this is not in conflict with democracy because the people enact the law and they themselves implement it. According to the new interpretation

of democracy, however, religious inclination of the people should not be manifested in .sociopolitical matters

Hegemonic system's exploitation of new concept of democracy

According to the new interpretation offered and implemented by imperialist states to advance their interests and objectives, democracy

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is synonymous with a secular regime—a regime which never allows religion to interfere in its sociopolitical affairs. Even if the people themselves say, "We profess this religion and want to practice our religious rites in public institutions," that will of .the people is considered inconsistent with democracy

It is for this reason that when an election was held in Algeria in which an Islamist party won and on the basis of the principles of democracy and laws of the country, it wanted to form a government and implement Islamic laws, the oppositionists, who felt that the said party was about to rule and establish an Islamic government in future, staged a coup d'état and after declaring the election null and void, apprehended and imprisoned the leaders of the party and abolished the party and declared it illegal. After many years, the party is still not permitted to operate. This is in spite of the fact that this Muslim country obtained independence from a colonial government by sacrificing millions of people for the preservation of its Islamic identity. Nowadays, it is in a miserable state. As we read in newspapers, everyday .tens of people are brutally murdered in that country

The unelected ruling clique is still more acceptable to the arrogant and imperialist countries than the rightfully elected government of the people. This is due to fear that another country would be established in the name of Islam. "If people accept Islam and elect an Islamic government through their vote, that

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is not 'democratic' because the people have an inclination toward religion," it is

argued. So, in the new interpretation of democracy, religion should in no way interfere in the sociopolitical affairs of people even to the extent that schoolgirls must not wear .a headscarf. The same democracy can also be observed in Turkey

The agents of imperialism in Muslim countries are inculcating the notion that all Muslim countries must be administered through this democratic method. That is, no more room would be left for religion in the national administrative affairs including legislation and implementation. Through cultural onslaught and penetration of universities, even in countries with strong and deep-rooted Islamic inclination they are trying to undermine the spirit of religious fervor and propagate democracy in this sense. By doing so, they imagine that after a few decades when the revolutionary generation will be replaced by the youth who do not know the principles of the .Revolution, they will make the new concept of democracy prevail

:There are, thus, three interpretations and concepts of democracy

(١) direct involvement of people in administrative affairs practiced in one of the Greek ;cities

(٢) involvement of people in government through election of their representatives, existing today in many countries including ours; and

(٣) all dimensions of government, including legislation and implementation, separated .from religion

.That is, to be democratic means to be secular

Islam's ideal form of democracy

As to which of these administrative forms is acceptable to Islam, we have said earlier that if democracy in legislation means that whatever is approved

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by the majority of people—that is, ۵٠٪ plus ١—is a credible, official and binding law even if it were against the text of the Qur'an, then Islam does not accept such

democracy in legislation. Islam that has its own explicit laws in various administrative affairs, judiciary, economics, management, and related to other organs of the country does not allow a law against the explicit text and fixed decree of the Qur'an to be recognized officially. To officially recognize such a law is tantamount to rejection of .Islam

What needs further explanation and which I promised to discuss is the executive dimension of democracy, the role of the people in electing those who want to enact the laws within the framework of Islamic foundations, viz. the deputies in the Islamic Consultative Assembly. In cases where Islam has not enacted fixed and permanent laws, there is the need to enact new laws for new issues and needs, Islam has authorized the legitimate government apparatus to enact necessary laws for this domain while observing the general principles and standards of Islam and not contradicting the framework of Islamic laws, labeled by the late Shahid (Ayatullah Sayyid Muhammad Baqir) Sadr as "free zone" [mantaqah al-firagh]. The driving and traffic laws stipulate the side to move—right or left—and the speed of a vehicle. .Evidently, the Qur'an and traditions have no text in this regard

The people's role in determining the legislators and executives that enact and implement temporary laws can be materialized by observing

Islamic standards. In other words, democracy and the vital role and participation of people are practiced in our country observing limits and conditions set by Islam by electing those who qualify. Electoral candidates must be Muslims committed to Islamic laws and observe Islamic standards in enacting laws and rules. In addition to the conditions set for deputies in the Islamic Consultative Assembly, with the exception of a few deputies of religious minority groups, the rest of the .representatives must be Muslims committed to observe Islamic laws

Lest there were negligence and shortcomings and Islamic laws were not observed in enacting laws, a number of experts constituting the so-called Council of Guardians are duty-bound to conform the ratified bills of the Majlis to the Constitution and

religious standards and then validate them. In the case of their nonconformity, the said bills are returned to the Majlis for review. This is the type of legislative and .executive mechanism accepted in our country and no one opposes it

Similarly, executives with the President at top must observe Islamic laws and standards. First of all, the President must possess the conditions, qualities and merits mentioned in the Constitution which are taken from Islamic laws, and in taking charge of the government he must be, so to speak, authorized by God, the Exalted in the sense that after garnering the majority vote and endorsement of the people, he must be designated by the wali al-faqih. In this case, his government shall be legitimate and .credible

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.This is something which is implemented in our country

With the aim of understanding the role of the people and the domain of their involvement in the Islamic system, let me cite an example. Let us assume that we were living during the caliphate of the Commander of the Faithful('a) and in our own city we knew of a righteous person who deserved to be the city ruler and we endorsed him to the Imam ('a). After receiving the endorsement, the Imam ('a) possibly designated him as the new ruler. Now, if the majority of people had such endorsement, the Imam('a) would highly regard their view and designate the said .person as governor of one of the regions under his jurisdiction

So, the role of the people in the government structure and administrative decision-making, in terms of theory and legitimacy, is that people decide who is the most meritorious in enacting or enforcing the law and then cast their vote in his favor. The vote of the people is equivalent to a recommendation to the leadership. In reality, it is a pact they forge with the wali al-faqih that if he designates the recommended person to the presidency, they will obey him. It is on this basis that during the time of the eminent Imam ('a), when the majority of people elected a person to the presidency, he would say, "I do hereby designate him, who is endorsed by the people, to be the President." That is, "the vote of

".the people is like an endorsement for me to accept him

This is the theory of the Islamic government which has no contradiction whatsoever with the second meaning of democracy. It is functioning in our country since the Revolution and no (theoretical) problem has ever emerged. Yet, if democracy means that religion should have no role in the affairs of society and none of the religious symbols be seen in the government institutions, such a thing is incompatible with !Islam

Democracy in its third sense, as interpreted by the Global Arrogance that wants to impose it on others is absolutely opposed to Islam, for it means the negation of Islam. However, democracy in its second sense has been accepted by observing the conditions set by Islam for rulers, legislators, implementers, and judges. That is why the people should seriously elect individuals who deserve to legislate and implement laws, and thus, prove their cooperation and support for the Islamic state and regard themselves as participating in the affairs of the country. This form of democracy is accepted in Islam and practiced in our country. If there are violations in some cases, .they are also committed elsewhere, and one should be vigilant lest they are repeated

(Session ۲۲: Islam and Democracy (Part ۲

Secular democracy and its philosophical underpinning

The new concept of democracy as being necessarily secular is advanced by statesmen in Western countries in which no trace of religion must be seen in any government institution. Religion can neither interfere in legislation nor law enforcers rule in the name of religion. This is

why young women in Islamic hijab are banned from entering public schools because the entrance of a person with a religious symbol means that the state supports him or her. Indisputably, this new concept is totally anti-religious. Instead of the label

"democracy" used for it, it is appropriate to call it "anti-religion dictatorship" because it does not allow individuals to practice their religious beliefs and affairs in society and prohibits the practice of religious obligations in government institutions.

This method and approach, devoid of any philosophical foundation, has been advanced by the anti-religious politicians with the aim of thwarting the spread of religions, Islam in particular, in Western countries. Under the pretext of advocating democracy in countries affiliated to them including some Muslim countries, they are trying their best to adopt this approach. An example of this can be witnessed in Algeria and Turkey.

In order to prevent this approach from acquiring the image of true dictatorship and be promoted in the frame of a moderate and peaceful democracy, a philosophical underpinning has been considered to mitigate tension with religious elements.

The so-called philosophical justification is as stated in the Universal Declaration of Human Rights that all human beings are one, and so to speak, have no class distinction. Permission to observe religious rites in government institutions would be a kind of privilege accorded to religionists, whereas, all human beings must be treated as equals!

But this question remains unanswered: Why do they allow other social groups to do whatever they

want and behave and wear attires in whatever fashion they like but deny the religionists the prerogative to wear special attire or cover their hair (the hijab). This is actually a denial of freedom and negation of the rights of some citizens.

Fallacy in the philosophical foundation of secular system

This is how they justify what they are doing, but there is a profound fallacy in it for all citizens to be equal in citizenship is not a corollary of the equality of all human beings in humanity. The equality of all human beings in humanity is an issue which Islam has

upheld before and more than the rest. As God says,

(يَا أَيُّهَا النَّاسُ إِنَّا خَلَقْنَاكُم مِّن ذَكَرٍ وَأُنثَى وَجَعَلْنَاكُمْ شُعُوبًا وَقَبَائِلَ لِتَعَارَفُوا إِنَّ أَكْرَمَكُمْ عِندَ اللَّهِ أَتْقَاكُمْ...)

"O mankind! Indeed We created you from a male and a female, and made you nations and tribes that you may identify one another. Indeed the noblest of you in the sight of Allah is the most God-wary among you..."(1)

The Qur'an categorically negates distinction and superiority between human beings, presenting them as children of the same parents, siblings without any distinction and superiority. This issue has never been mentioned in any other heavenly scriptures in such an eloquent manner. As Muslims, we also believe that all human beings are equal in humanity and humanness has no first or second class. As Sa'di say:

بنی آدم اعضای یک دیگرند که در آفرینش زیک گوهرند

The children of Adam who are of one essence in creation are parts of one another.

However,

۱- Surah al-Hujurat ۴۹:۱۳.

this does not mean that all human beings in all countries equally enjoy the legal rights of a citizen. As a principle in international law, it has been accepted throughout the world that citizenship has its peculiar conditions, rights and merits. A person might migrate from his country of origin and live for many years in another country which might benefit a lot from his services but he would not be granted citizenship in that country because of particular laws and rules.

Even if it is granted it might be a second class citizenship which does not accrue all the privileges of a native. This fact exists everywhere in the world. We do not have first and second class human beings but we may have first and second class citizens, and this is something which is also accepted in Islam.

We must be vigilant and aware that Western states present their dictatorship as "democracy" in order to realize their wicked motives. We should not be deceived by them. Advancing the new theory about democracy is actually a kind of dictatorship .that deprives the Muslims of practicing their religious obligations in those countries

This is while the Universal Declaration of Human Rights has stipulated that religion is free and all people are free in performing their religious obligations. No condition is made in the Declaration that religious symbols and practices should not be observed in government institutions, but whenever they want, the politicians interpret the law in their favor and talk about

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war in the name of peace and violation of the rights of others as protection of human .rights. Everyday we witness their oppressive and deceitful acts on a global level

Advancing democracy in the sphere of management

Three meanings of democracy have been mentioned, all of which are related to political philosophy, but some writers who portray themselves as "intellectuals" claim that in essence the concept of democracy has nothing to do with political philosophy for it is related to the domain of management. The simple reply to these individuals is that a survey will make it clear that there is no book of political philosophy in which .democracy is not touched

If the concept of democracy is not related to political philosophy, why is it extensively discussed in all political philosophy books? The secret behind this claim is that recently, liberal thinkers and writers of the West have presented a new definition of democracy to keep it out of the political vocabulary and insert it in other realms of .social sciences

They have asserted that democracy is meant to limit the power of the ruler and foster compromise among opposing groups and encourage conciliation among parties and groups, and it is not only related to administration but also applicable to management. For example, if there is a difference of opinion among managers of a company or

among their subordinates, they must arrive at a consensus because persistence of this difference of opinion will not be beneficial for the company. So, in order to advance the

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interest of the company, they have to consult one another and finally arrive at an .agreement, or uphold the majority decision. They call this the ‘democratic’ method

Democracy is now a way of removing differences within an organization. Given this definition, democracy in its general sense is taken out of political philosophy and introduced in the sphere of management. Governance and administration is actually also a managerial task on a grand scale, but it has a specific domain and in order to expand the concept of democracy, they assert that whenever there is conflict between two groups a reconciliation in the above manner will be based on democracy. The explanation for this is that in the conflict between two groups, one group may dominate the other by force and impose its view. Certainly, this approach is undemocratic. But if they agree and finally uphold the majority opinion, that means .putting democracy into practice

We do not oppose the coinage or expansion of a scientific term, but it must not be forgotten that this concept is originally related to the realm of politics and extended to other domains. In social sciences, there are many similar concepts which were initially used in one field and after extending their meanings, applied in various contexts in other fields. For instance, the concept of “strategy” is used commonly in all fields. Basically, this term means “leading an army” [sawq al-jayshi], used in military science, and “strategist” is the one who is in charge of planning and

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commanding the war. The area where an army encamps or stays or where an attack .”will commence is called “strategic area

Later on, this concept was gradually adopted by other sciences and is now used, in

political discussions as "strategic policies". Even in training and education and different types of management, "strategic issues" are tackled. For instance, we have provisions of the constitution that are "strategic" in nature such as the article that emphasizes the necessity of adapting laws of the country to Islam. Yet, it is astonishing that sometimes some elements talk about the Constitution as if it is above the Qur'an and .divine revelation. At times, they also oppose it as if it is of no value to them at all

Wherever the Constitution deals with honoring the will of people, they do not allow even the verses of the Qur'an to state anything against it; the Prophet (s), infallible Imams ('a) and the Imam of the Time('a) have also no right to oppose it! But the provision of the Constitution which stipulates that all existing laws in the country must be compatible with Islam is forgotten and to oppose it is declared lawful. They say, "!"The basis is the people's vote

Is it not enshrined in the same constitution that laws to be enacted in the country must be compatible with Islam? So, if some thing is haram according to Islam, how can you afford to declare it lawful by citing the Constitution? Considering this constitution emphasizes

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the observance of Islam, how is it that it is free to insult sanctities and essential laws of Islam by invoking freedom of the press? The press is free within the framework of law, and not beyond it. When Islamic law regards it obligatory to honor religious sanctities and not to slight laws of Islam and mock God and the Prophet (s) as it will be tantamount to apostasy, law on freedom of the press cannot declare such a thing lawful. The Constitution is originally codified to expound the concept of an Islamic .Republic

Paramount station of Islam and wilayah al-faqih in the Islamic Republic

During the first year of the victory of the Revolution, i.e. in ۱۹۷۹ when a referendum for the Islamic Republic was to be held, different options were suggested as to the forms of government from which the people could choose. Some of the selections were

"republic," "democratic republic," "Islamic democratic republic," and "Islamic republic". But the Imam said: "'Islamic republic', no more, no less." Ninety-eight percent of the .people of Iran also voted for the Islamic republic

That is, the Islamic description of the government cannot be removed and be replaced by the word "democratic". Now, if democracy is something above Islam, why did the Imam not allow this word to be inserted in the name of the Islamic government? And if republicanism is the same as democracy, there is no more need for the label "democratic". Why did they insist on the label "democratic republic" and why did the Imam and the people in obedience to

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him oppose it? It is obvious that democracy could have different meanings, and certain things beyond its meanings could be applied to republicanism which would be .negated and reliance on public opinion would outdo Islam

Our system is an Islamic republic whose pillar is supported by the people. It was these people who staged the Revolution and who will keep it going with its Islamic substance and framework. The late martyred professor Mutahhari (may Allah the Exalted, be pleased with him) has an explanation which serves as a guidance for us in this context. He used to say: "Republicanism speaks of the form of government while ".'being Islamic' speaks of the substance of government

The substance of government is the implementation of the commandments of Islam, but its form is republicanism in contrast to monarchy. So, our regime will not be a monarchy. Rather, its form is republic while its substance is Islamic. Authenticity is with the Islamic concepts, laws and values, and we do not have anything below or .beyond Islam

The Imam used to say time and again that the legitimacy of every system and every government position in the Islamic Republic depends on the authority of the wali al-faqih, upon which the theory of wilayah al-faqih is based. We have learned from the fuqaha, especially from the Imam, who also confirms its rational and textual proofs.

Since the wali al-faqih is the authorised successor of the infallible Imam ('a) who, in turn, is authorized by God, the

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legitimacy of the system comes with the wilayah al-faqih. Of course, this theory is not compatible with those who have been accustomed to Western culture.

We insist on this theory because this theory is consistent with the intellectual basis derived from monotheism and rooted in the Islamic viewpoint and not from the inclination of the clerical establishment. As I have explained before, the legislative Lordship of God demands that divine authority must be observed both in legislation and execution of laws; otherwise, a kind of polytheism is committed. This does not mean, however, that the people in this society do not have any role. The people have a total role in this system within the framework determined by Islam, and in this domain nothing else can replace the role and impact of the people. But one should make a difference between the legitimacy [mashru'iyyah] and acceptability [maqbuliyyah] of a system.

The explanation for this is that since the Renaissance, there is no place in Western legal, philosophical and social discussions for God and religion. When, for example, they stipulate human rights in the Universal Declaration of Human Rights, the relationship between man and God is not mentioned there. If freedom of religion is also mentioned there, it is because as a choice, human beings have the right to choose any religion. There is no mention of truth and falsehood, or whether God exists or not.

Whenever social rights, including fundamental rights, civil rights and criminal rights, are stipulated for individuals,

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there is no association of those rights with God. It is never discussed whether God has rights over man or not; whether man has duties toward God or not. They do not like to

consider God in issues pertaining to their rights, but if in accordance with our own beliefs, we want to base the legal system of our country upon the teachings of Islam and divine rights, they do not have any authority to deprive us of this right. As believers in God, monotheistic people and followers of Islam, we believe that in all legal issues—social, civil, criminal, and political—God must be taken into account. Above all rights is the right of Allah. With respect to Him, we have duties and responsibilities that we must discharge.

On the other hand, the rights of men are not the only discussed issue. In fact, rights and duties must be discussed together, the most important being the duty of man toward God. The right of legislative Lordship of God over human beings is for them to accept His laws in sociopolitical affairs. If a person does not believe in God, we will not compel him to accept Islam, but as Muslims we have the right to apply our beliefs in politics and the means of administering our country. In the constitution of our country, this has been accepted and as such it is significant to the highest degree for us. Our respect to the Constitution is the same as giving value to

Islam.

Form of democracy acceptable to Islam

The second meaning of democracy has been accepted with certain conditions and qualifications. No legislative authority has the right to oppose the definite laws of Islam which is how we accept democracy. Meanwhile, concerning democracy as a method of solving differences, it must be said that as long as Islamic values are sufficient to solve differences, they shall take precedence, but in case of differences where Islamic laws have no specific way of solving them and there is also no competent arbiter, the majority view shall be preferred.

For example, a number of people form a committee within the framework of law to decide an important matter and all believe in Islam and observe Islamic values, but do not arrive at a consensus on the issue as the majority has a certain opinion while the

minority has another opinion and there is no basis to prefer one view over the other—the majority view will take precedence, and opposing majority view shall be .considered an undue preference

As such, whenever we have no preferable option, we can obtain a sound opinion from the majority view which will be credible and preferred. If through the majority view of ignoramuses, we can not obtain a sound opinion, preferring that opinion will be rationally reproachable and incorrect. This method is credible to a certain extent, but it is not correct to abuse it by placing the majority of people against a minority of experts. For example, let us assume that for sketching a

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military plan there are ten military experts and one thousand common people who .are unfamiliar with military issues

If attention is given to the view of common people who are unfamiliar with military issues while the view of experts is rejected, this act is unreasonable. Every intelligent person says that the view of the experts takes precedence over the view of non-experts. Thus, democracy as a means of solving differences with certain limits and conditions is credible, but as the basis of giving preference to every majority over every minority it is not credible

Session ۲۳: An Examination of the Essence of Unity in Humanity and the Citizenship of Citizens

Islam's view on root of emergence of rights

Discussions in political philosophy have proximity with that of legal philosophy and are integrated in some areas. Common and similar issues are discussed; for example, a legal issue is examined in a political discussion. On this basis, in the previous session we mentioned an issue in legal philosophy, i.e. the essence of unity in humanity. We said that it is true that all human beings are common in humanity and according to Islam we do not have first class or second class human beings, but it does not necessarily follow that all people are equal in social matters in terms of rights and

.duties

In this context, those who are pursuing mischievous motives by portraying themselves as revolutionary Muslim people and utilizing the achievements of the Revolution in favor of their motives are acting against the Revolution by saying that since we do not have first class or second class human beings, all people in

society must have the same rights, such as forming a party and acquiring civil and .military posts

According to them, any person, irrespective of his conviction and ideology, can be the president or prime minister. He may form any party he wants. Their argument is that since all human beings are equal, it follows that in spite of their non-acceptance of the Revolution or the Constitution they have the right to enjoy all rights. In refutation of this fallacy, let us say that it is true that we do not have first or second class human beings, but the source of all rights and duties are certain qualities other than the .essence of humanity

Some have not properly understood this fact or out of wicked motives have interpreted it wrongly. Someone says, "We have first class and second class citizens. The first class citizens are the clergy while the rest are considered second class citizens!" We have no option but to allocate this session to an examination of this .allegation and its refutation

In order to clarify this matter, one needs to pay attention to one of the serious debates among legal philosophers of the world on what is essentially the origin of rights? On what basis can we say that a person has the right to do a certain thing? Each of the different approaches in legal philosophy such as historical rights, .positivism, natural law, and others, have given their own reply

Islam also has its own distinct view. According

to Islam, the source of all rights must be traced back to God, the Exalted, because all creation belongs to Him. Whatever anybody possesses comes from Him. In cosmic affairs, our existence and whatever we have belong to God—"Verily, we belong to Allah" [inna lillah]—and everything is "from Allah" [min Allah]. Similarly, legislative affairs must also derive from God the Exalted. This is our general perspective on the origin and source of rights which can be summarized as follows: It is God who grants rights to others. Does God equally and evenly grant rights to all human beings?

Or, does He grant certain rights to some of His servants which He does not grant to others? Generally, we know that God has granted rights to the prophets ('a) which He has not given to others; a certain right to parents and another right to children. Is the divine will senseless, does God give a right to a person without any basis and deprives another person of the same, or a certain criterion is actually taken into account? If there were any basis, what is it?

The basis of rights granted by God to His servants is the station and position they have in the universe. Conditions necessitate that they should have such rights for the specific duties they have. We have all been created to move by our willpower and freewill toward true and ultimate perfection. So, we have a general obligation to move along the path of perfection, which

in Islamic culture is called "worship of God":

(أَلَمْ أَعْهَدْ إِلَيْكُمْ يَا بَنِی آدَمَ أَنْ لَا تَعْبُدُوا الشَّيْطَانَ إِنَّهُ لَكُمْ عَدُوٌّ مُّبِينٌ وَأَنِ اعْبُدُونِی هَذَا صِرَاطٌ مُّسْتَقِيمٌ)

"Did I not exhort you, O children of Adam, saying, 'Do not worship Satan. He is indeed your manifest enemy. Worship Me. This is a straight path'?"(۱)

In another verse, God says:

(فَأَرْسَلْنَا فِيهِمْ رَسُولاً مِنْهُمْ أَنِ اعْبُدُوا اللَّهَ...)

"And We sent them an apostle from among themselves, saying, 'Worship Allah!'..."(۲)

So, the kernel of the call of all prophets (‘a) is the worship of God, and this universal obligation of all mankind has legal implications. That is, whenever man wants to move along the path of perfection and proximity to Allah, the necessary facilities and capacities must be at his disposal. Similarly, there must also be laws in society that facilitate this movement. Whenever man wants to move toward God, he must be alive. So, the right to life as the foremost of rights emanates from this. The second right is the freedom of movement because this wayfaring is not compulsory. He must .be free in his choice to choose his way

The third right is the enjoyment of material blessings of this world because if he does not make use of them, he cannot live and subsist. In order to survive and procure the provisions for this journey, he has the right to make use of clothing and food in this world. He has the right to use the instincts that God has endowed

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١- Surah Ya-Sin ٣۶:۶٠-۶١.

٢- Surah al-Mu’minun ٢٣:٣٢.

him with, including the sexual instinct. So, he must select his own spouse. As you can .observe, rights are accompanied by obligations

In previous discussions we also pointed out the relationship between rights and duties. Since we are bound to move toward God and obey Him, we must have certain rights, by exercising which we can continue treading this path. On this basis, anything in society and public life that hinders this movement for perfection of human beings must be controlled by an Islamic government. The government must thwart elements that obstruct and hamper this movement of an Islamic society toward God. In his personal life, the individual concerned is also bound to procure the effective and influential instruments in removing obstacles on his way. The basis of possession of rights is the capability of individuals and capacity of growth and perfection. Duties and .obligations will be placed on their shoulders for which they will possess certain rights

Impact of natural and acquired differences on rights and duties

We are all essentially one in humanity but human beings have enormous differences that can be classified into two. The first category consists of natural and predestined differences and distinctions. The main category of differences among human beings can be traced to natural biological differences like gender differences between men and women. Physiologically, biologically, psychologically, and emotionally, there are differences between the two genders that are the very reason behind the difference .in their respective rights and duties

That is, it is true that man and woman are humans and they are

both "first class" human beings, but because of the unique constitution of her body and her psychological makeup, woman must shoulder certain obligations. The role being played by woman in reproduction and breastfeeding can never be played by man. Therefore, certain obligations are set upon her. She is bound to play her pivotal role in bearing the fetus for nine whole months. Then, for two years she has the obligation to feed and foster the child. Correspondingly, special rights must also be .considered for her

If, on account of her natural and inherent characteristic, woman is supposed to bear a child, and then feed and foster it, and at the same time, work like man and be obliged to provide for her sustenance, she cannot discharge her main obligations, and this is an act of injustice against her. So, she must have special rights. That is, man is made responsible to provide for her sustenance and remove from her shoulder the burden of looking for her daily bread. If a woman was obliged to work, so many kinds of work .would lead to her miscarriage or delay in her feeding

Emotionally also, if the woman had no economic security and was concerned about her sustenance, her worry and stress would indirectly affect the child. It is scientifically proven that the more peace of mind the woman has, the greater are her chances of nurturing a healthier baby. For this reason, Islam has accorded special rights to women. For example, economically, the

life of woman must be ensured by man. For breastfeeding her child, the wife could even ask for a stipend from her husband. That is, she must have privileges in the domain of family for her efforts and sacrifices.

Thus, concerning the rights and duties of man and woman, the notion that since both are human their rights and duties must also be the same is wrong. Woman has her own distinctions and so does man. These distinctions are the source of difference in duties as well as rights.

Therefore, one difference is natural and predestined. That is, no one has the choice of being male or female. This has something to do with the divine will:

(يَهَبُ لِمَنْ يَشَآءُ إِنَاثًا وَيَهَبُ لِمَنْ يَشَاءُ الذُّكُورَ)

"He gives females to whomever He wishes, and gives males to whomever He wishes."(۱)

So, the willpower and freewill of individuals has no hand in determining their own and their children's gender. Therefore, these differences and distinctions which lead to differences in rights and duties are natural ones.

The other category of differences in human beings is voluntary in nature and applied to those who acquire special skills in life. For example, a person who acquires education will have to assume an obligation in society which cannot be assumed by an illiterate or ignorant person.

Also, if an uneducated person uninformed of political issues says, "I also have the right to be president," he will be told, "To be president you have to qualify for

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۱- ۴۲:۴۹ Surah ash-Shawra.

the post. If you have the essential capability, you can file your candidacy and if people

vote for you, you can become President.” He can not say, “Since there is no first or second class human being, it means that I also have the right to become president.” It is not legally correct for any person, who goes against the goals of a nation and does not accept its constitution, to say: “I want to be president of this country since I am ”!also a human

For merely being a human being, you have no right to occupy any post in the country. A post demands certain qualifications. For instance, in the Islamic republic, the president must be a Muslim. A non-Muslim—notwithstanding all the honor we accord .him and the right accorded him by the Constitution—cannot be the president

Determining different classes of individuals in laws of citizenship

All countries of the world have special conditions for sensitive posts. Among such affairs is the issue of citizenship. Throughout the world citizenship is not identical and uniform. Anyone who has basic knowledge of private international law can understand this point. For example, if a certain Iranian wants to acquire citizenship of one of the European or American countries, first of all, the acceptance of his application for citizenship will have certain conditions. Even after the acceptance of his application for citizenship, he shall not be allowed to become president because he .is a second class citizen

,Possibly, through a series of tests, he might acquire first class citizenship. In any case

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it is not true that anyone who is a citizen of a country has all the rights enjoyed by all the people of that country, because citizenship has numerous classes. By merely stating that there is no first or second class humanity, we cannot conclude that there is also no first or second class citizenship or nationality. Every country has set certain conditions for its citizens. In Islam certain conditions have also been considered. So, the fact that all human beings are identical in humanity does not mean that they are .also all equal in citizenship

Thus, although all the people in every country are considered citizens of the said

country, they do not possess the right to occupy all posts and positions as their rights are not the same. The basis and criterion of determining their rights are different. We believe that all of these must be traced to divine authorization. Those who live in liberal or democratic countries and do not accept divine laws assert that only the will of people must be followed, but we argue that apart from the will of people, there must also be divine permission. The will, vote and right must not be against divine .permission and the law of God

In any case, no country grants identical citizenship to all individuals, or negates second class citizenship merely on account of the absence of second class humanity. This issue is also mentioned in our Constitution. I wonder why our critics have missed out the

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legal provision which stipulates, thus: "Those who shall adopt Iranian citizenship shall enjoy all rights accorded to all Iranians except the right to be President, minister, deputy minister, or any foreign political officer." That is, anyone who is granted Iranian citizenship has no right to be a political envoy, ambassador, chargé d'áffaires, consul, or minister. He may have adopted Iranian citizenship and Iran may also have .granted it, but he will not have those rights. This is the text of our law

First and second class citizenship according to Islam

We shall concisely state here that the main priority in the legal theory of Islam for the classification of countries is the belief system, geographical boundaries having no genuine basis. The agenda of Islam is the establishment of a global Islamic government, which will be realized, God willing, by the advent of the Master of the Age (may Allah expedite his glorious advent), in which the geographical boundaries will be removed and all members of the Islamic ummah will be citizens of a single country and subjects of a single government with Islam as the basis of their .citizenship

In that government, rights and duties of a non-Muslim will be different from those of a

Muslim. Non-Muslims do not perform all the duties of a Muslim, neither do they enjoy all the rights. Under certain circumstances the wali al-faqih and Islamic government can temporarily recognize geographical boundaries. As such, if today we recognize .geographical boundaries, it is not based upon the agenda of Islam

It is rather due to

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an exigency realized in the light of regional and international laws, which shall become binding on us by means of a decree issued by the wali al-faqih. In reality, those .boundaries will be determined and confirmed by the wali al-faqih

So, in Islam, one of the conditions of citizenship is being a Muslim in order to have first .class citizenship while a non-Muslim has second class citizenship

Functional difference between wilayah al-faqih and other systems

Those who always talk about popular and democratic governments and feel ashamed that their government is based upon wilayah al-faqih are heedless of the services rendered by him in this country. They are heedless that based on the theory of wilayah al-faqih laws and decrees of the Islamic state and statutory laws of the Islamic Consultative Assembly after confirmation by the Council of Guardians are religiously incumbent upon Muslims because they are authorized by the wali al-faqih, .and his authority, in turn, is based on the authority of God

This is a great merit that this system has. But if we do not accept the wilayah al-faqih system, then obedience to laws and decrees is based on the commitment of people to laws in accordance with their demand. They can withdraw from their commitment, review their demand, and change an article of law as they like. So, in the democratic .system there is no religious underpinning of the people's obedience to laws

In an Islamic government, laws become binding with the authorization and approval of the wali al-faqih. Apart from enjoying people's commitment

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and customary requirement backed by their vote, there is also the religious underpinning going against which is a sin that invites divine wrath. This is the difference between abiding by the laws of the Islamic government and obedience to laws whose legitimacy and credibility are only supported by the majority will. Since majority of the Majlis deputies are elected by the people, they deem it incumbent .upon themselves to obey these laws

Now, rationally speaking, to what extent are deputies who have not voted in favor of the laws, or the minority who have not voted for the deputies who approved those laws, obliged to abide by those laws? When a law is approved by the deputies of the majority of people, should the minority who opposed the law psychologically and ?emotionally be obliged to obey it? How can they be bound by majority will

Obedience to Islamic laws which are ratified by the Majlis deputies and approved by the wali al-faqih has been made obligatory by God, and even those who have not voted in favor of those laws are religiously bound to abide by them. Of course, the Muslims are aware of this fact and are sincerely committed to obey the laws of the Islamic state that have divine legitimacy. They do not oppose these laws because they are familiar with the structure and rules of the divine Islamic government. This level of obedience and acceptance of laws and rules is among the merits and salient features of the

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divine system which has materialized in our country under the label of wilayah al-faqih system.

Through a survey of the Islamic movement and Revolution, we realized that widespread obedience of people to the Leader- Jurist-Guardian, and sincere submission to His Eminence's commands and instructions was the key factor in our advancement and victory during the Revolution and after its victory. Also, the same factor was the reason why our nation emerged victorious with honor in the unequal

.(war (imposed by Iraq

Is there anyone in the world who does not know that one of the important factors of the victory of the Islamic Revolution in Iran was the people's religious belief in the exigency and indispensability of obeying their religious leader? Then, as an injustice of the highest order, in a country where the Islamic system is established by the sacrifices and selflessness of martyrs who struggled and waged jihad by the order of their leader and religious reference authority, some elements write and claim, thus: "The Imam sailed smoothly over the wave of the people's movement and portrayed it "!as the Islamic movement and Revolution

Is this claim true? If the Muslims of Iran had not been present on the scene of the Revolution and discharged their spiritual and religious obligations and opened their breasts vis-à-vis the bullets, could the Revolution succeed? Had it not been for the order of the Imam, would they have done these things? It is unfair for us to forget and .deny these realities

The

truth is that religion and the Imam's leadership played the leading and crucial role in the occurrence of the Revolution, its continuity, and then victory in the war after enduring all adversities, difficulties and problems. God willing, through the leadership of the competent successor of the eminent Imam (q) and his astute policies, these standings will continue as before under the auspices of the unity and solidarity of the self-sacrificing people of Iran, and under the shadow of the wali al-faqih's leadership (may Allah, the Exalted, protect him), the people will reach further stages and degrees .of perfection and advancement

Summing up, categorization of citizenship is something accepted by all political systems of the world and the difference in classes of citizenship is not something we have originated. This difference in classes of citizenship has nothing to do with their essential humanity. From the perspective of their being human, all people are in the

.same class

However, either they naturally possess certain qualities that may be a source of difference in duties and rights, or they have acquired qualifications, qualities, capabilities, and talents which are the reason why they have to discharge certain duties, and likewise, to enjoy certain rights. So, the source of difference in rights and duties is either natural differences or differences arising from individual choice and freewill. For example, professing a certain religion, or acquiring necessary qualities and capability for the assumption of a post or position, including the acceptance of certain principles and foundations, can be

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.contributory in the status of their citizenship or nationality

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About center

In the name of Allah

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?Are those who know equal to those who do not know
al-Zumar: ٩

:Introduction
Ghaemiyeh Computer Research Institute of Isfahan, from ٢٠٠٧, under the authority of Ayatollah Haj SayyedHasanFaqihImami (God blesses his soul), by sincere and daily efforts of university and seminary elites and sophisticated groups began its activities .in religious, cultural and scientific fields

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Ghaemiyeh Computer Research Institute of Isfahan in order to facilitate and accelerate the accessibility of researchers to the books and tools of research, in the

field of Islamic science, and regarding the multiplicity and dispersion of active centers in this field

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:Appreciation

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